GENERAL ASSEMBLY
COMMONWEALTH OF KENTUCKY

2016 REGULAR SESSION

SENATE BILL NO. 141

TUESDAY, MARCH 1, 2016

The following bill was reported to the House from the Senate and ordered to be printed.

RECEIVED AND FILED
DATE April 8, 2016
2:36pm

ALISON LUNDERGAN GRIMES
SECRETARY OF STATE
COMMONWEALTH OF KENTUCKY
BY K. Adler

1 AN ACT relating to board membership for municipal utilities.

2 ***Be it enacted by the General Assembly of the Commonwealth of Kentucky:***

3 ➔Section 1. KRS 96.530 is amended to read as follows:

4 (1) Any city acquiring or constructing an electric light, heat, and power plant under the
5 provisions of KRS 96.520 shall, by ordinance, appoint a city utility commission
6 consisting of three (3) commissioners to operate, manage, and control the plant,
7 except that a city with a population equal to or greater than twenty thousand
8 (20,000) based upon the most recent federal decennial census shall appoint five (5)
9 commissioners. The utility commission shall have absolute control of the plant in
10 every respect, including its operation and fiscal management and the regulation of
11 rates, except that in fixing rates the commission shall be governed by the provisions
12 of KRS 96.430, as it is made applicable to those plants by KRS 96.520, and by any
13 ordinance enacted under that section, except that in fixing rates the commission in a
14 city with a population equal to or greater than eight thousand (8,000) based upon the
15 most recent federal decennial census shall be governed by the provisions of KRS
16 96.535 and any ordinance enacted according to this section. The utility commission,
17 when so appointed, shall be a public body politic and corporate, with perpetual
18 succession; and the body may contract and be contracted with, sue and be sued, in
19 and by its corporate name, and have and use a corporate seal. The utility
20 commission shall provide rules for the management of the plant, and it shall fix the
21 number, qualifications, pay, and terms of employment of all employees needed to
22 operate the plant. In cities with populations equal to or greater than eight thousand
23 (8,000) based upon the most recent federal decennial census providing civil service
24 coverage for city employees, the utility commission appointed under this section
25 may provide civil service coverage for all of its employees, and it shall exercise the
26 powers and functions with respect to their employees which are vested in the city
27 legislative body with respect to the city employees by KRS 90.380. Employees who

1 have been in the employment of the utility commission for one (1) year immediately
2 preceding the adoption of an order by the utility commission placing all of its
3 employees under civil service coverage shall not be required to stand a civil service
4 examination, and they shall be eligible for all the benefits provided by civil service
5 coverage. Out of the revenue of the plant, it shall pay operating expenses, repairs,
6 and necessary additions and provide sufficient reserve fund against any emergency
7 that may arise. The commission shall from time to time pay to the city the surplus
8 revenue derived from the operation of the plant as is provided in KRS 96.430 and
9 96.440, as they are made applicable to the plants by KRS 96.520, except that the
10 commission in a city with a population equal to or greater than eight thousand
11 (8,000) based upon the most recent federal decennial census shall pay to the city the
12 surplus revenue derived from the operation of the plant as is provided in KRS
13 96.535 and any ordinance adopted according to this section. Notwithstanding the
14 foregoing provisions, the utility commission, for the purpose stated in KRS
15 96.520(1), may enter into an agreement for the operation of any of its plants or other
16 facilities.
17 (2) Except as provided in KRS 61.070, no person shall be appointed a member of the
18 commission who has, within the last two (2) years before his appointment, held any
19 city, county, state, or federal office, or been a member of any committee of any
20 political party, or who is related within the third degree to the mayor, or a member
21 of a city legislative body. The commission shall not appoint to any subordinate
22 office that it may create any person who is related to any commissioner, to the
23 mayor or to any member of the city legislative body. No officer or employee of the
24 city, whether holding a paid or unpaid office, shall be eligible to be appointed as a
25 member of the commission or to be employed by the commission in any capacity.
26 The members of the commission shall be citizens, taxpayers, and legal voters of the
27 city and shall not at the time of appointment be indebted to the city or be surety on

1 the official bond of any officer of the city. ***<u>However, one (1) commission member</u>***
2 ***<u>may be appointed who lives in a portion of the utility's service area that is not</u>***
3 ***<u>within the city if that portion contains ten percent (10%) or more of the utility's</u>***
4 ***<u>customers and that member has been a customer of the utility for not less than</u>***
5 ***<u>one (1) year.</u>*** If at any time during his term of office any member of the commission
6 becomes a candidate for or is elected or appointed to any public office, he shall
7 automatically vacate his membership on the commission, and another person shall
8 be appointed in his place.
9 (3) The city shall pay the cost of securing bonds for the commissioners from a surety
10 company, and each commissioner shall execute bond to be approved by the city
11 legislative body.
12 (4) The city legislative body shall fix the salary to be paid each member of the
13 commission at a sum not to exceed two thousand four hundred dollars ($2,400) per
14 annum. The Department for Local Government shall compute by the second Friday
15 in February of every year the annual increase or decrease in the Consumer Price
16 Index of the preceding year by using 1998 as the base year, and the salary of the
17 commissioners may be adjusted at a rate no greater than that stipulated by the
18 Department for Local Government.
19 (5) The first commissioners appointed under this section shall be appointed one (1) for
20 the term of one (1) year, one (1) for the term of two (2) years, and one (1) for the
21 term of three (3) years. Upon the expiration of the first terms, successors shall be
22 appointed for a term of three (3) years. On a commission with five (5) members, not
23 more than two (2) members shall hold concurrent terms of office.
24 (6) All commission members appointed subsequent to the initial members shall be
25 appointed by the mayor or chief executive of the municipality, with the approval of
26 the governing body of the municipality.
27 ➔Section 2. KRS 96.740 is amended to read as follows:

1 (1) Any municipality desiring to acquire and operate an electric plant under the
2 provisions of KRS 96.550 to 96.900 or any municipality now owning and operating
3 an electric plant may elect to operate under the provisions of KRS 96.550 to 96.900
4 by enacting an ordinance declaring therein the desire and intention of the
5 municipality to accept and operate under the provisions of KRS 96.550 to 96.900
6 and by providing in the ordinance that the municipality accepts and agrees to all of
7 the provisions of KRS 96.550 to 96.900, and to all of the provisions as they may be
8 from time to time amended by the acts of the General Assembly of Kentucky. The
9 ordinance shall further authorize the mayor or chief executive to appoint a board,
10 subject to the approval of the appointments by the governing body of the
11 municipality as hereinafter in KRS 96.750 to 96.900 provided. Upon the passage of
12 the ordinance the mayor or chief executive of any municipality may, with the
13 approval of the governing body of the municipality, appoint a board of public
14 utilities, consisting of four (4) residents of the municipality who have resided
15 therein for not less than one (1) year next preceding the date of the appointment.
16 ***However, one (1) board member may be appointed who lives in a portion of the***
17 ***utility's service area that is not within the city if that portion contains ten percent***
18 ***(10%) or more of the utility's customers and that member is a customer of the***
19 ***utility for not less than one (1) year.*** The board must be appointed and qualified
20 before the municipality shall have any authority to proceed further under the
21 provisions of KRS 96.550 to 96.900. The board, when so appointed and qualified,
22 shall be and hereby is declared to be a body politic and corporate, with perpetual
23 succession; and may contract and be contracted with, sue and be sued, in and by its
24 corporate name, and have and use a corporate seal. The name of the board shall be
25 "Electric Plant Board of the City of _____" (The name of the municipality to
26 be inserted.)
27 (2) No person shall be appointed a member of the board who has, within the last two

1 (2) years next before his or her appointment, held any public office, or who is
2 related within the third degree to the mayor or any member of the governing body of
3 the municipality.
4 (3) Neither the board nor the superintendent appointed by the board shall appoint to any
5 subordinate office which it may create nor employ in any capacity any person who
6 is related within the third degree to any member of the board or to the mayor of the
7 municipality or to any member of the governing body of that municipality. No
8 officer or employee of a municipality shall be eligible for such appointment until at
9 least one (1) year after the expiration of the term of his or her public office, or
10 employment, except that the one (1) year waiting period after the expiration of the
11 term of public office or employment shall not apply to an employee of a
12 municipality that is not related within the third degree to the mayor or any member
13 of the governing body of the municipality, at the time of appointment or
14 employment by the board.
15 (4) ***Except as provided in subsection (1) of this section,*** the members of the board shall
16 be citizens, taxpayers, and legal voters of the municipality and shall not at the time
17 of the appointment be indebted to the municipality either directly or indirectly or be
18 surety on the official bond of any officer of the municipality.
19 (5) If at any time during his or her term of office a member of the board becomes a
20 candidate for or is elected or appointed to any public office, he or she shall
21 automatically vacate his or her membership from the board, and another person
22 shall be appointed to his or her place.
23 (6) The municipality shall pay the cost of securing bonds for board members from a
24 surety company qualified to do business in Kentucky, and members shall execute
25 bond in an amount required by resolution of the governing body, and conditioned
26 upon the faithful performance of their official duties.
27 (7) Each member of the board shall qualify by taking the oath required by Section 228

1 of the Constitution.

President of Senate

Speaker-House of Representatives

Attest: Chief Clerk of Senate

Approved Governor

Date 8 APRIL 2016