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CHAPTER 216A

DEPARTMENT OF PUBLIC SERVICE, ORGANIZATION

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216A.01 ESTABLISHMENT OF DEPARTMENT AND BRANCHES. There is hereby created and established the department of public service to consist of two branches, the public service commission and the administrative division. The department of public service shall have and possess all of the rights and powers and perform all of the duties vested in it by chapter 216A, and, immediately prior to enactment of said chapter, vested by law in the railroad and warehouse commission.

[1967 c 864 s 1; 1969 c 1031 s 1]

216A.02 DEFINITIONS. Subdivision 1. **Legislative function.** The term "legislative function", as used in sections 216A.01 to 216A.09, shall include the establishment and promulgation of all rules, regulations, orders and directives of general or particular applicability, governing the conduct of the regulated persons or businesses, together with such investigative procedures as are incident thereto and all other valid acts and procedures which are historically or functionally legislative in character.

Subd. 2. **Administrative function.** The term "administrative function", as used in sections 216A.01 to 216A.09, shall include all duties and procedures concerning the execution and enforcement of the laws, rules, regulations, orders, directives, duties and obligations imposed for the control and government of the persons or businesses regulated, together with investigative activities incident thereto and procedures inherently administrative or executive in character.

[1967 c 864 s 2]

216A.03 COMMISSION. Subdivision 1. **Members.** As of January 1, 1975 the public service commission shall consist of five members, three of whom shall be the members then serving, who shall continue to serve for the balance of their elective or appointive terms. There shall be two additional commissioners appointed by the governor with the advice and consent of the senate, one for a term expiring December 31, 1975, and one for a term expiring December 31, 1977. Thereafter the terms of all subsequent members of the commission shall be five years and until their successors have been appointed and qualified. Each commissioner shall be appointed by the governor by and with the advice and consent of the senate. Not more than three commissioners shall belong to the same political party. The governor in his selection of commissioners shall give consideration to persons learned in the law or persons who have engaged in the profession of engineering, public accounting or property and utility valuation as well as being representative of the general public.

Subd. 2. **Vacancies.** Any vacancy on the commission shall be filled by the governor, by and with the advice and consent of the senate, for the unexpired portion of the term in which the vacancy occurs.

Subd. 3. **Chairman.** The commission shall elect one of their number chairman.

Subd. 4. **Oath.** Before entering upon the duties of his office, each commissioner shall take and file with the secretary of state the following oath:

"I do solemnly swear that I will support the constitution of the United States, the constitution of this state; that I will faithfully discharge my duties as commissioner of the public service commission according to the best of my ability; and that I am not in the employ of or holding any official relation to or pecuniarily interested in any individual proprietorship, firm, copartnership, corporation or association, the activities of which are wholly or partially subject to regulation by the public service commission; nor do I serve on or under any committee of any political party."

Subd. 5. Quorum. A majority of the commission shall constitute a quorum, and the act or decision of a majority shall be the act or decision of the commission, provided that vacancy on the commission shall not impair the authority of the remaining commissioners or a remaining commissioner to exercise all of the powers of the commission.

[1967 c 864 s 3; 1974 c 429 s 65]

216A.035 CONFLICT OF INTEREST. No person during his term of membership on the public service commission shall receive any significant portion of his income directly or indirectly from any public utility. No person shall be eligible to be appointed as a member of the public service commission unless and until he divests himself of any significant interest or abandons any employment with a utility.

No person who is an employee of the public service commission shall participate in any manner in any decision or action of the commission where he has a direct or indirect financial interest.

[1974 c 429 s 66]

216A.04 SECRETARY; EMPLOYEES. Subdivision 1. **Selection and duties of secretary.** The commission shall appoint a secretary, not a member, who shall be in the unclassified service of the state and shall serve at the pleasure of the commission, except that the secretary now serving the railroad and warehouse commission shall continue as secretary in the classified service. He shall take, subscribe and file an oath similar to that required of the commissioners. He shall be charged with keeping full and correct records of all transactions and proceedings of the commission, have the power to administer oaths, and perform such other duties as may be prescribed by the commission. He shall be the official custodian of the records and seal of the commission and shall be subject to the same disqualifications as commissioners.

Subd. 2. Acting secretary. The commission may designate any responsible employee to serve as acting secretary in the absence of the secretary.

Subd. 3. Officers and employees. The commission may employ such other assistants as may be necessary to carry out its functions, including hearing officers and reporters, within the funds provided therefor from time to time. The commissioners individually may act as hearing officers.

Hearing reporters may provide transcripts of proceedings before the commission to persons requesting transcripts who pay a reasonable charge therefor to the reporter. The amount of the charge shall be fixed by the commission and retained by the reporter, any other law to the contrary notwithstanding.

[1967 c 864 s 4; 1971 c 74 s 1; 1971 c 646 s 1; 1973 c 35 s 44]

216A.05 FUNCTIONS AND POWERS. Subdivision 1. **Legislative nature of functions.** The functions of the commission shall be legislative in nature. It may make such investigations and determinations, hold such hearings, prescribe such rules and regulations and issue such orders with respect to the control and conduct of the businesses coming within its jurisdiction as the legislature itself might make but only as it shall from time to time authorize.

Subd. 2. Powers generally. The commission shall, to the extent prescribed by law:

(1) Investigate the management of all carriers and warehousemen, including express companies, sleeping car companies and telegraph companies, the manner in which their businesses are conducted and the adequacies of the services which they are affording to the public, and make all appropriate orders relating to the continuation, termination or modification of all services and facilities with a view to properly promoting the security and convenience of the public.

(2) Review and ascertain the reasonableness of tariffs of rates, fares and charges, or any part or classification thereof, and prescribe the form and manner of filing, posting and publication thereof.

(3) Prescribe uniform systems of keeping and rendering accounts and the time within which such systems shall be adopted.

(4) Direct the repair and reconstruction or replacement of any inadequate or unsafe trackage or structure, motor carrier vehicle or facility.

(5) Order the issuance of franchises, permits or certificates of convenience and necessity.

Subd. 3. Manner of fact finding. The commission may:

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(1) Make or amend any rules and regulations governing the procedure and conduct of its hearings not inconsistent with law.

(2) Subpoena, in the same manner a district court summons is served, at such time and place as it may designate, any books, papers or accounts kept by any regulated business within or without the state, or compel production of verified copies in lieu thereof.

(3) Prepare all forms or blanks for the purpose of obtaining information which it may deem necessary or useful in the proper exercise of its authority and duties in connection with regulated businesses, and prescribe the time and manner within which such blanks and forms shall be completed and filed with it.

(4) Inspect, at all reasonable times, and copy the books, records, memoranda, correspondence or other documents and records of any business under its jurisdiction.

(5) Examine, under oath, any officer, agent or employee thereof in relation to its business and affairs.

Subd. 4. **Performance of functions of department of public service.** The commission shall exercise each and every legislative function imposed in present laws upon the department of public service.

Subd. 5. **Hearings upon petitions.** The commission shall receive, hear and determine within six months all petitions filed with it in accordance with the procedures established by law and may investigate, hold hearings and make determinations upon its own motion to the same extent, and in every instance, in which it may do so upon petition.

Subd. 6. **Operation with regard to federal law.** The commission is authorized:

(1) To cooperate with all federal agencies for the purpose of harmonizing state and federal regulations within the state to the extent and in the manner deemed advisable, and for such purpose may approve and establish freight rates which depart from the distance principle required by any state law.

(2) To conduct joint hearings with the interstate commerce commission or federal communications commission within or without the state and participate in any proceedings before such commissions when it considers such participation advisable and in the interest of the people of this state.

(3) To nominate members to any joint board as provided by federal acts.

[1967 c 864 s 5; 1969 c 1031 s 2; 1971 c 25 s 67]

216A.06 DIRECTOR. Subdivision 1. **Establishment of office, appointment; term.** The office of director of the administrative division of the department of public service is hereby established. He shall be appointed by the governor with the advice and consent of the senate, for a four year term and the initial term to expire on the first Monday in January, 1971.

Subd. 2. **Disqualifications, removal.** The director shall be subject to the same disqualifications for office as commissioners, shall take and file a similar oath of office, and shall be in the unclassified service and shall be subject to removal by the governor for inefficiency, neglect of duty, malfeasance in office or any grounds provided herein as disqualifying him. His removal shall be upon not less than ten days' notice, based upon written charges, with an opportunity for a public hearing thereon.

[1967 c 864 s 6]

216A.07 DUTIES OF DIRECTOR. The director shall be the executive and administrative head of the public service department. He shall have and possess all the rights and powers and perform all the duties relating to the administrative function of the department as set forth in section 216A.02, subdivision 2.

[1967 c 864 s 7; 1969 c 1031 s 3]

216A.08 CONTINUATION OF RULES OF RAILROAD AND WAREHOUSE COMMISSION. All valid rules, regulations, orders and directives heretofore issued or promulgated by the railroad and warehouse commission shall remain and continue in force and effect until repealed, modified or superseded by duly authorized rules, regulations, orders or directives of the public service commission.

[1967 c 864 s 8]

216A.09 ACTIONS. The commission may sue or be sued in its own name.

[1967 c 864 s 9]

RAILROAD PASSENGER SERVICE

216A.10 RAILROAD PASSENGER SERVICE NOT PROVIDED BY NATIONAL

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SYSTEM, PURPOSE. The purpose and intent of sections 216A.10 to 216A.13 is to provide for a balanced transportation system in the state, required by the public convenience and necessity, by making available rail passenger service not provided by the National Railroad Passenger Corporation in its basic national rail passenger system.

[1971 c 956 s 1]

216A.11 DEFINITIONS. Subdivision 1. For the purposes of sections 216A.10 to 216A.13 the terms defined in this section have the meanings given them.

Subd. 2. "Corporation" means the National Railroad Passenger Corporation created pursuant to the Rail Passenger Service Act of 1970, Public Law 91-518.

Subd. 3. "Governmental unit" means a regional development commission, county, city or town.

[1971 c 956 s 2; 1973 c 123 art 5 s 7]

216A.12 AUTHORITY TO ENTER INTO AGREEMENTS. The public service commission, any governmental unit, or any combination thereof, may enter into any contracts or agreements pursuant to Public Law 91-518 and in conformance with state law governing contracts by state agencies and governmental units, to reimburse the corporation for a reasonable portion of any losses associated with the institution of intercity rail passenger service by the corporation beyond that included within the basic national rail passenger system.

[1971 c 956 s 3]

216A.13 PUBLIC HEARING; NOTICE. Before any contract or agreement, as provided in section 216A.12, is entered into, the governing body of the governmental unit shall hold a public hearing on such proposed contract or agreement. Notice of the time and place of said hearing shall be published in one or more legal newspapers of general circulation in the area once in each week for two successive weeks prior to said hearing. The published notice shall be in a form determined by the governing body, which form shall be sufficient in size and prominent in format in order to attract the attention of the reader. In any event the notice shall be of a size at least two columns in width by six inches in length. The notice shall set forth the portion of any losses that the governmental unit proposes to reimburse the corporation.

[1971 c 956 s 4]