

February 20, 1951.
Passed on File.

Senate File 381

By **McCARVILLE, LYNES, AUGUSTINE
and RIDOUT.**

Passed Senate, Date

Vote: Ayes..... Nays.....

Passed House, Date

Vote: Ayes..... Nays.....

Approved

A BILL FOR

An Act creating and establishing a "Public Service Commission of Iowa" providing for appointment of members, their term of office, qualifications, salary and removal; defining terms used in Act; providing for office of the commission, its accounting for and disposition of funds; setting forth powers of the commission and manner of conducting its business.

Be It Enacted by the General Assembly of the State of Iowa:

- 1 Section 1. Definitions. The following words and phrases
- 2 as used in this chapter, unless a different meaning is plainly
- 3 required by the context, shall have the following meanings:
- 4 1. "Commission" shall mean the "Public Service Commission
- 5 of Iowa";
- 6 2. "Commissioner" shall mean one (1) of the members of
- 7 the public service commission of Iowa";
- 8 3. "Public utility" or "utility" shall be limited to and
- 9 mean every corporation, partnership, individual or association,
- 10 their lessees or their receivers appointed by any court, that
- 11 may own, operate, manage, control, or have franchise rights
- 12 for any plant or equipment, or any part of a plant or equipment
- 13 in a county, town, village, or city in this state, engaged in

14 the business of furnishing means of communication by telephone.

15 4. "Rate" shall mean and include every compensation,
16 charge, toll, rental and classification, or any of them
17 demanded, observed, charged or collected by a public utility
18 for any service or product or commodity offered by it to the
19 public, and any rules, regulations, practices, franchises, or
20 contracts affecting any such compensation, charge, toll, rental
21 or classification.

1 Sec. 2. Commission; creation; term; qualifications.

2 1. A public service commission is hereby created and
3 established which shall consist of three (3) members appointed
4 by the governor, with the advice and consent of the senate,
5 for a two (2) year term. The official designation of the
6 commission shall be the "Public Service Commission of Iowa".
7 They shall elect one (1) of their number chairman of the
8 commission and shall appoint a secretary outside of the commission.

9 2. If the senate is not in session when a term expires
10 or a vacancy occurs the governor may make the appointment to
11 take effect at once, subject to the approval of the senate,
12 when it is convened.

13 3. The term of office of the first (1st) commissioners
14 appointed shall begin when appointed by the governor and expire
15 on June 30th, 1953. Thereafter the term of office of each
16 full time member of the commission appointed shall be for a
17 period of two (2) years from July 1st, of the year of appointment.

18 4. Vacancies for unexpired terms shall be filled in the

19 same manner as original appointments but the appointments shall
20 hold office only to the end of the unexpired term.

21 5. Each commissioner shall be a resident and a qualified
22 voter of this state and not less than twenty-five (25) years of age
23 at the time of appointment and qualification. Not more than
24 two (2) of the commissioners shall be affiliated with the same
25 political party.

1 Sec. 3. Removal of commissioner. The governor may remove
2 any commissioner for cause, after delivering to him a copy
3 of the charges against him, and an opportunity of being publicly
4 heard in person or by counsel in his own defense upon not less
5 than ten (10) days notice. If a commissioner is removed the
6 governor shall file in the office of the secretary of state
7 a complete statement of all the charges against the commissioner
8 and his findings thereon, and a complete record of the proceedings.
9 Any commissioner so removed may bring action in the proper
10 court to determine whether or not he was legally removed in
11 accordance with this section.

1 Sec. 4. Oath and bond. Each commissioner before
2 entering upon the duties of his office shall take the oath
3 required of civil officers and shall be bonded in the sum of
4 ten thousand dollars (\$10,000.00) in the manner that other
5 state officers are bonded.

1 Sec. 5. Office of commission. The commissioners shall
2 keep their office at the seat of the government and shall be
3 provided with a suitable room, necessary office furniture and

4 equipment, stationery, books and maps, and the expense thereof
5 paid out of the state treasury, pursuant to the appropriation
6 for such purpose.

1 Sec. 6. Salary; fees.

2 1. The salary of each commissioner shall be six thousand
3 dollars (\$6,000.00) per annum which shall be full compensation
4 for all official services.

5 2. All fees or expenses received or charged by any such
6 commissioner or the commission for any Act or service rendered
7 in any official capacity to a public utility or public utilities
8 shall be accounted for by the commissioner or commission,
9 monthly, to the state treasurer and shall be credited to the
10 appropriations made to the commission.

1 Sec. 7. Controlling vote. All questions arising in
2 connection with the action of the commission shall be decided
3 by a majority vote.

1 Sec. 8. Commission powers and proceedings.

2 1. The commission in all cases may conduct its proceedings,
3 when not otherwise particularly prescribed by chapter — or
4 law, in such manner as will best conduce to the proper dispatch
5 of business and to the end of justice. A majority of the
6 commission shall constitute a quorum for the transaction of
7 business but no commissioner shall participate in any hearing
8 or proceeding in which he has any direct personal pecuniary
9 interest. The commission from time to time may make or amend
10 such general rules or orders as may be requisite for the

11 orderly regulation of the proceedings before it, including
12 forms of notice and service thereof, which shall conform as
13 nearly as may be to those in use in the courts of this state.
14 Any party may appear before the commission and may be heard
15 in person, or by counsel. Every vote and official action
16 shall be entered of record and its proceedings shall be public
17 upon the request of any person interested. The commission
18 shall have an official seal, which shall be judicially noticed,
19 and every commissioner shall have the right to administer
20 oath and affirmations, subpoena witnesses or records in any
21 proceedings pending before the commission.

22 2. The commission may initiate and investigate and order
23 a hearing on its own motion in every case which it is authorized
24 to investigate or hear upon complaint or petition and may
25 exercise therein the same jurisdiction as upon complaints
26 filed.

27 3. A substantial compliance with the requirements of
28 the statutes shall be sufficient to give effect to all rules,
29 orders, acts and regulations of the commission and they shall
30 not be declared inoperative, illegal or void for any omission
31 of a technical nature in respect thereto.

32 4. The commission or any commissioner or any person
33 employed by the commission for that purpose shall, upon demand,
34 have the right to inspect the books and papers of any public
35 utility and to examine under oath any officer, agent, or
36 employee of such utility in relation to its business and

37 affairs; provided that any person other than one (1) of the
38 said commissioners, who shall make such demand shall produce
39 his authority under the hand and seal of the commission.

1 Sec. 9. Appointment of examiners and attorneys.

2 1. The commission may use the services of an assistant
3 attorney general to be appointed by the attorney general as
4 counsel of the commission. It may employ the service of additional
5 attorneys, rate experts, statisticians, accountants and
6 engineers to act as examiners for the purpose of holding any
7 hearing which the commission or any member thereof has power
8 or authority to hold.

9 2. The attorney general, on request of the commission,
10 shall institute, prosecute, appear, and defend the commission
11 in any and all actions and proceedings which the commission may
12 institute and prosecute, or to which the commission is a party.
13 The commission shall employ additional counsel to assist such
14 attorney general or assistant attorney general, when in its
15 judgment the exigencies of the case may require. The fee of
16 such additional counsel shall be determined by the commission,
17 approved by the state comptroller and paid out of funds
18 appropriated to the commission.

1 Sec. 10. Assistants; authority to appoint; salaries
2 and expenses.

3 1. The commission shall employ clerks, stenographers,
4 rate experts, engineers, inspectors, accountants and such
5 other employees as may be deemed necessary in the discharge of

6 its official duties.

7 2. The commission shall fix the compensation of these
8 employees according to acceptable standards.

9 3. The salaries and expenses provided for by this
10 section, and all other expenses incurred by the commission
11 in the administration of the commission shall be paid out of
12 the funds appropriated by the legislature to the commission.

1 Sec. 11. Disposition of penalties; expenses collected.

2 Except as otherwise provided, any penalty which shall be
3 collected for violation of any of the provisions of this title
4 or expenses collected in the course of the conduct of the
5 commission's regular functions, shall be paid the state treasurer
6 to be deposited with the funds appropriated to the commission,
7 and become a part thereof.

1 Sec. 12. Biennial report by governor. The commission
2 on or before the first (1st) Monday in December in each even
3 year shall make a report of its doings for the proceedings
4 two (2) years. This report shall be printed by the state and
5 shall contain all the state's statutory regulations affecting
6 the commission, and shall be made available for public distribution.

1 Sec. 13. Copies of official documents as evidence.

2 Copies of all official documents and orders filed or deposited
3 according to law in the office of the commission, certified by
4 a commissioner, or by a secretary or assistant secretary of
5 the commission, under its official seal, to be true copies of
6 the originals, shall be evidence in like manner as the originals.

1 Sec. 14. Charges. The commission shall determine and
 2 fix all charges for furnishing copies, records, reports and
 3 evidence that has not already been covered by state law. All
 4 fees charged and collected under this section shall be paid
 5 to the state treasurer to be deposited with the funds
 6 appropriated to the commission and become a part thereof.

1 Sec. 15. Constitutionality. If any section, subsection,
 2 clause, sentence, or phrase of this Act is for any reason held
 3 to be unconstitutional and invalid, such decision shall not
 4 affect the validity of the remaining portions of this Act. The
 5 legislature hereby declares that it would have passed this
 6 Act and each section, subsection, clause, sentence or phrase
 7 hereof irrespective of whether any one or more of the sections,
 8 subsections, clauses, sentences or phrases be declared
 9 unconstitutional.

1 Sec. 16. Publication clause. This act being deemed of
 2 immediate importance shall be in full force and effect from and
 3 after its passage and publication, as provided by law, in the
 4 , a newspaper published at
 5 , Iowa, and in the;
 6 a newspaper published at , Iowa.