

CHAPTER 139
FORMERLY
SENATE BILL NO. 124

AN ACT TO AMEND TITLE 29 OF THE DELAWARE CODE RELATING TO THE DIVISION OF THE PUBLIC ADVOCATE.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

Section 1. Amend § 8716, Title 29 of the Delaware Code, by making deletions as shown by strike through and insertions as shown by underlining as follows:

(a) There is established within the Department of State the Division of the Public Advocate. The Public Advocate shall be a person qualified by training and/or experience to perform the duties of the office. Beginning in the 149th General Assembly, the Public Advocate shall be appointed by the Governor with the advice and consent of the majority of the Senate ~~and shall hold office at the pleasure of 5 the Governor during the Governor's term of office and until the appointment and qualification of the Public Advocate's 6 successor,~~ to serve a term of four years at the pleasure of the Governor. The Public Advocate shall be a full-time employee of the State.

(b) No person shall be eligible for appointment to be Public Advocate who owns or controls, in that person's own name or as a fiduciary, or whose spouse or minor child residing in that person's household owns or controls any stock, note or debenture in any public utility, or who holds any office or position with any public utility or whose employment or vocation depends directly upon or is under the control of a public utility.

(c) In the event of death, resignation, temporary incapacity or removal of the Public Advocate and prior to the appointment of a successor, the Governor may appoint an Acting Public Advocate. The Acting Public Advocate shall have all the powers and shall perform all the duties and functions of the Public Advocate during such absence or incapacity or until a successor is duly qualified and appointed.

~~(d)~~ (d) The Public Advocate shall comply with and be held strictly accountable for compliance with the highest standards of Chapter 58 of this title and § 22, Article II of the Delaware Constitution. The Division of the Public Advocate is an agency subject to Chapters 64 and 100 of this title.

~~(e)~~ (e) The Public Advocate shall have the following powers and duties:

(1) To appear before the Public Service Commission on behalf of the interest of consumers in any matter or proceeding over which the Commission has jurisdiction and in which the Public Advocate deems the interest of consumers requires such participation.

(2) To advocate the lowest reasonable rates for consumers consistent with the maintenance of adequate utility service and consistent with an equitable distribution of rates among all classes of consumers; provided, however that the Public Advocate shall principally advocate on behalf of residential and small commercial consumers and shall not be required to advocate for any class of commercial or industrial consumers that the Public Advocate determines in his or her sole discretion on a case by case basis has the ability to advocate on its own behalf before the Public Service Commission.

(3) To appear on behalf of the interest of consumers in the courts of this State, the federal courts and federal administrative and regulatory agencies and commissions in matters involving rates, service and practices of public utilities.

(4) To hire, from time to time, as needed, in connection with proceedings before the Commission, experts in the utility regulation field, including, but not limited to, economists, cost of capital experts, rate design experts, accountants, engineers and other specialists. A budget for compensation and/or expenses of these experts shall be provided annually through the Delaware Public Utility Regulatory Revolving Fund. Nothing in this section shall be construed to preclude the Public Advocate from applying to the General Assembly for additional funds in specific instances, including emergencies, and from receiving such additional amounts as the General Assembly shall determine.

(5) To have the same access to and the same right to inspect any and all books, accounts, records, memoranda, property, plant facilities and equipment of the public utilities as is afforded by law or by rule of the Public Service Commission to any other party in interest.

(6) To have full access to the records of the Public Service Commission.

(7) To call upon the assistance of the staff and experts of the Public Service Commission in the performance of duties.

(8) To appoint, fix the compensations and terms of service and prescribe the duties and powers of such staff as may be necessary for the proper conduct of the work of the Division of the Public Advocate, within the conditions and limitations imposed by the merit system of personnel administration.

(9) Upon request of the Governor, the Secretary of the Department, or the General Assembly, the Public Advocate shall provide guidance on matters relating to energy policy and utility consumers, and shall consider such other matters as may be referred to the Public Advocate or the Division by the Governor, the Secretary of the Department, or the General Assembly. The Public Advocate may study, research, plan and make advisory recommendations to the Governor, the Secretary of the Department, or the General Assembly on matters it deems appropriate to advocate on behalf of public utility consumers.

~~(f)~~ (f) The Public Service Commission shall notify the Public Advocate of all hearings and meetings of the Commission and shall forward to the Public Advocate copies of all applications submitted by public utilities and all formal complaints and petitions filed with the Commission. No formal action taken by the Commission without proof of the receipt of notice by the Public Advocate shall have any legal effect.

~~(g)~~ (g) The Public Advocate shall be entitled to be present and be heard at any public meeting of the Public Service Commission.

~~(h)~~ (h) When the Public Advocate shall determine to intervene in a matter before the Public Service Commission, the Public Advocate shall file a statement to that effect with the Public Service Commission. Thereupon, the Public Advocate shall be deemed a party in interest and shall have full power to present evidence, subpoena and cross-examine witnesses, submit proof, file briefs, appeal and do any other act appropriate for a party to the Commission.

(i) The Public Advocate shall make an annual report to the Governor and the General Assembly of the Division's activities, and shall render such other reports as the Governor or General Assembly may from time to time request or as may be required by law.

Approved July 24, 2013