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MEMORANDUM

To: Senate Committee on Utilities
From: Office of Revisor of Statutes
Date: February 13, 2023
Subject: Bill Brief – Senate Bill 88

Senate Bill 88 would provide for the statewide election of the commissioners of the state corporation commission, establish the utilities regulation division within the office of the attorney general, exempt the state corporation commission from the requirements of the open meetings act, and make other statutory revisions in relation to such policies.

Statewide Election of Commissioners of the State Corporation Commission

SB 88 would provide for the statewide election of the three commissioners of the state corporation commission. Commissioners would be elected in the general elections conducted in even numbered years alongside and generally under the same conditions as other statewide elected officials.

The bill would establish an election schedule to that would lead to the commission becoming fully elected in January 2029. The elections of the commissioners would commence and be conducted as follows:

- Commission Position One - The commissioner whose appointed term ends on March 15, 2024, would be deemed commission position one. Such position would first be elected during the 2024 primary and general election. Once elected, the commissioner would take office the second Monday in January 2025.
- Commission Position Two - The commissioner whose appointed term ends on March 15, 2026, would be deemed commission position two. Such position would first be elected during the 2026 primary and general election. The commissioner would take office the second Monday in January 2027.

- Commission Position Three - The commissioner whose appointed term ends on March 15, 2027, would be deemed commission position three. Such position would first be elected at the 2028 primary and general election. The commissioner would take office the second Monday in January 2029. In the general election of 2028, commission position one would be up for election again and would be on the ballot with commission position three in such year and every four years thereafter.

SB 88 would authorize the term of any commissioner to be extended until the successor is elected. SB 88 would also authorize the governor to appoint a commissioner, subject to senate confirmation, for any remainder of time until the successor is elected. A candidate for commissioner must be a qualified elector of the state of Kansas by the filing deadline.

Commencing February 1, 2024, and each year until the commission is fully elected, the governor would appoint the chairperson of the commission for a one-year term. No chairperson could be appointed for more than three consecutive terms. Once fully elected in 2029, the commission would select the chairperson of the commission as provided under current law.

Campaign Contributions

Section 2 of SB 88 would prohibit any candidate for commissioner from soliciting or accepting any campaign contributions from a public utility, a political committee established by a public utility, or any political committee that receives contributions from a public utility. SB 88 would also prohibit a public utility, a political committee established by a public utility, or political committee that receives contributions from a public utility from contributing to any candidate.

Establishment of the Utilities Regulation Division in the Office of the Attorney General

Section 3 of SB 88 would establish the utilities regulation division in the office of the attorney general. The attorney general would be required to appoint a director of the division who would be authorized to hire any personnel that are necessary to carry out the duties of the division including attorneys, engineers, accountants, and economists.

The utilities regulation division would have the following duties and obligations:

- Represent and protect the collective interests of all Kansas utility ratepayers in utility rate-related proceedings before the state corporation commission and in any other judicial or administrative proceedings.
- Advocate for reasonable, affordable, and regionally competitive utility rates.
- Balance the interests of residential, business, and industrial utility customers.
- Promote long-term, cost-effective, and reasonable solutions to issues faced by the utility industry.
- Eliminate corporate waste and unnecessary spending by public utilities.

Commencing January 1, 2024, the staff of any division of the state corporation commission that litigate, argue, or participate in public utility rate proceedings for the purpose of making non-binding recommendations to the state corporation commission on behalf of ratepayers shall be transferred to the utilities regulation division subject to the discretion of the attorney general. The transfer would not apply to any staff that participate in telecommunications rate proceedings. SB 88 would require the attorney general and the state corporation commission to collaborate to effectuate the staff transfer.

SB 88 would include the utilities regulation division within the laws that authorize recovery from utilities for the expenses incurred in relation to the regulation of public utilities. SB 88 amends K.S.A. 66-1502 governing reimbursable assessments and K.S.A. 66-1503 governing quarterly assessments. The reimbursable assessment recovers expenses attributable to investigations or appraisals of the property of public utilities. The quarterly assessment recovers other expenses related to the regulation of public utilities. SB 88 would require the commission to include within any such reimbursable or quarterly assessment, the expenses attributable to the utilities regulation division.

Exemption from Kansas Open Meetings Act

SB 88 would amend K.S.A. 75-4318 to exempt the state corporation commission from the requirements of the open meetings act.