

GENERAL ASSEMBLY OF NORTH CAROLINA
1995 SESSION

CHAPTER 442
SENATE BILL 570

AN ACT TO RESTRUCTURE THE LEXINGTON UTILITIES COMMISSION.

The General Assembly of North Carolina enacts:

Section 1. Section 7.2 of the Charter of the City of Lexington, being Chapter 906, Session Laws of 1981, as amended by Chapter 806 of the 1985 Session Laws, Chapter 64, Session Laws of 1987, and Chapter 542 of the 1989 Session Laws, reads as rewritten:

"Section 7.2. Utilities Commission.

1. Creation; composition; terms.

A. A commission to be known as the Lexington Utilities Commission is established. The Commission shall be composed of ~~nine~~ five members. ~~Six members shall be residents of the respective electoral wards, one member must be a utility customer of the City of Lexington who resides outside the city limits of the City of Lexington but inside Davidson County, and two at-large members may reside anywhere in the city. Appointments for the two at-large seats and for Ward 1 shall continue their term of office until December 1990. Appointments for Wards 2, 3, and 4 shall be made in December 1989; appointments for Wards 5 and 6 shall continue their terms until 1991; and a person who resides outside the corporate limits of the City of Lexington but inside Davidson County shall be appointed for a term to expire in December 1991.~~ Three members shall be residents of the City of Lexington, at least one member shall reside on the east side of Main Street, and one member shall reside on the west side of Main Street. Two members shall be residents of Davidson County who live outside of the city limits of the City of Lexington and shall be electrical customers of the City of Lexington. Appointments to the Lexington Utilities Commission shall be made by the City Council beginning in December 1995 to be effective January 1, 1996. The council shall appoint one member for a term of one year, two members for a term of two years, and two members for a term of three years. Thereafter, appointments shall be for three-year terms.

B. All appointments made thereafter as terms expire shall be for terms of three years. ~~No person shall be eligible for reappointment who has previously served two consecutive three-year terms, until one year after the expiration of the last term served.~~

~~B.C.~~ Terms shall expire at the first regular meeting of the City Council in December of each respective year. As the term of each of the members of the Commission expires, a successor shall be appointed by the City Council as provided in Part A of this section for a term of three years. The City Council shall fill vacancies on the Commission occurring otherwise than by expiration of ~~term,~~ term by appointment

for the remainder of the unexpired term. All appointments shall be by majority vote of the membership of the City Council.

~~C.D.~~ If a member of the Utilities Commission establishes a residence outside of the City or outside of the electoral ward from and for which he was appointed, or if the member who is not a resident of the City shall move outside of Davidson County, the City of Lexington or on the opposite side of Main Street for which he was appointed, resulting in all members residing on either the west side or east side of Main Street, or if a member shall remove himself from Davidson County, or if a member living outside the city limits shall no longer be an electrical customer of the City of Lexington, then this shall be grounds for removal as a member of the Utilities Commission by action of the City Council.

2. Qualifications of Commissioners. The members of the Commission shall be residents of the City of Lexington, except for the member to be appointed outside of the City, and shall be citizens of the recognized ability and good business judgment and standing who, in the opinion of the City Council can and will perform their official duties to the best interest of the City and its inhabitants. In making appointments to the Utilities Commission, the City Council shall consider the racial diversity of the membership of the Commission.

3. Duties of Commission. The Commission shall act as an advisory body to the City Council in fixing rates and other charges concerning the public enterprises operated by the City. The Commission shall keep the City Council and City Manager fully informed as to the general operations of the various systems and make appropriate recommendations. The Commission shall also hear citizen concerns and grievances, and hear and finally determine controversies concerning operation of the various systems, such as potential termination of service for nonpayment or other reasons, alleged violations of sewer use or surcharge regulations, and revocation of water and sewer permits, if those matters have not been resolved to the satisfaction of the parties at the administrative level. The Commission shall also perform such other duties as the Council may direct.

4. Organization. ~~That the~~ The members of the ~~said~~ Commission shall meet as soon after their appointment as possible, and shall elect out of their number a ~~Chairman, Chairperson, a Vice-Chairperson, and a Secretary and a Treasurer, Secretary,~~ Secretary, each of whom shall be a different person. The Chairperson shall be a resident of the City of Lexington. The duties of each shall be such as is prescribed by said Commission from time to time, not inconsistent with the provisions of this act. ~~The Chairman-Chairperson~~ selected shall not vote unless there is a tie vote.

5. Records. The Commission shall keep full and accurate records of all meetings held and official action taken.

6. Fiscal Procedures. The financial practices and operations of the public enterprises shall be in accordance with the Local Government Budget and Fiscal Control Act and the Local Government Bond Act contained in Chapter 159 of the General Statutes.

7. Operation of Public Enterprises. The City Manager, through his designees, shall be responsible for operation and management of the various systems, including

supervision of personnel, and for implementation of policies set by the City Council. The Commission shall make studies and investigations as necessary to advise the City Council and City Manager in those responsibilities.

8. ~~Reserved. Public Enterprise Contracts and Property.~~ All contracts concerning public enterprises shall be made, ratified or authorized in the same manner as other contracts of the City of Lexington. Title to all public enterprise property shall be held by the City of Lexington.

~~9a.8a.~~ Appeals. Any appeals from the final decision of the Lexington Utilities Commission with regard to decisions concerning the operation of the various systems, including ~~terminations~~ termination of service for nonpayment and other reasons, and alleged violations of sewer use and surcharge regulations, and revocation of water and sewer permits, shall be appealed by way of certiorari to the General Court of Justice, Superior Court Division of Davidson County.

~~12.9.~~ Budget Recommendations. The Commission shall make recommendations to the City Manager and City Council concerning the public enterprise budgets.

~~13.10.~~ Financial Reports. The Commission shall make financial reports to the City Manager and the City Council as appropriate.

~~14.11.~~ Compensation. As compensation for their services, each member of the Commission shall be paid a salary established by action of the City Council.

~~15.12.~~ Neglect of Duty. That if any member of said Commission shall willfully neglect or fail to perform any duty required by the provisions of this ~~act~~ section or required by any rule or regulation by said Commission in pursuance of the authority contained in ~~said act, this section,~~ such member may be removed from office by a ~~two-thirds vote of the Utility Commission and~~ majority vote of the City Council of the City of Lexington in joint session. Lexington."

Sec. 2. The Lexington Utilities Commission in office as of December 31, 1995, is abolished, and the Lexington Utilities Commission as established by this act replaces it as of January 1, 1996.

Sec. 3. This act becomes effective January 1, 1996, except that appointments to the Lexington Utilities Commission shall be made in December of 1995 as provided by Section 1 of this act.

In the General Assembly read three times and ratified this the 17th day of July, 1995.

Dennis A. Wicker
President of the Senate

Harold J. Brubaker
Speaker of the House of Representatives