

CHAPTER 216A

DEPARTMENT OF PUBLIC SERVICE, ORGANIZATION

Sec.
216A.01 Establishment of department and branches.
216A.02 Definitions.
216A.03 Commission.
216A.035 Conflict of interest.
216A.04 Secretary; employees.
216A.05 Functions and powers.
216A.06 Director.
216A.07 Director; powers and duties.

Sec.
216A.08 Continuation of rules of public service department.
216A.09 Actions.
RAILROAD PASSENGER SERVICE
216A.10 Railroad passenger service not provided by national system, purpose.
216A.11 Definitions.
216A.12 Authority to enter into agreements.
216A.13 Public hearing; notice.

NOTE: For penalties for the violation of the provisions of this chapter, see section 235.13.

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 this chapter, 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. For the purposes of this chapter, the terms defined in this section have the meanings given them.

Subd. 2. "Legislative function" means the establishment and promulgation of all rules, 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. 3. "Administrative function" means all duties and procedures concerning the execution and enforcement of the laws, rules, 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.

Subd. 4. "Quasi-judicial function" means the promulgation of all orders and directives of particular applicability governing the conduct of the regulated persons or businesses, together with procedures inherently judicial.

[1967 c 864 s 2; 1977 c 364 s 1]

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 six 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. 1a. **Removals; vacancies.** The removal of members, and filling of vacancies on the commission shall be as provided in section 15.0575.

Subd. 2. [Repealed, 1976 c 134 s 79]

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 of commissioners present, if at least a quorum is present, shall be the act or decision of the commission. If a vacancy exists on the commission a majority of the remaining commissioners constitutes a quorum.

[1967 c 864 s 3; 1974 c 429 s 65; 1976 c 134 s 50,51; 1977 c 364 s 2]

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 and quasi-judicial nature of functions.** The functions of the commission shall be legislative and quasi-judicial in nature. It may make such investigations and determinations, hold such hearings, prescribe such rules 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. It may adjudicate all proceedings brought before it in which the violation of any law or rule administered by the department is alleged.

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

(1) Investigate the management of all warehousemen 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) Order the issuance of franchises, permits or certificates of convenience and necessity.

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

(1) 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.

(2) 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.

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

(4) 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 by law on the department of public service.

Subd. 5. Hearings upon petitions. With respect to those matters within its jurisdiction 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. Upon receiving petitions filed pursuant to sections 221.061, 221.081, 221.121, subdivision 1, 221.151, 221.296, and 221.55, the commission shall give notice of the filing of the petition to representatives of associations or other interested groups or persons who have registered their names with the director of the department for that purpose and to whomever he deems to be interested in the petition. The commission may grant or deny the request of the petition 30 days after notice of the filing has been fully given. If the commission receives a written objection and a notice of intent to appear at a hearing to object to the petition from any person within 20 days of the notice having been fully given, the request of the petition shall be granted or denied only after a contested case hearing has been conducted on the petition, unless the objection is withdrawn prior to the hearing. The commission may elect to hold a contested case hearing if no objections to the petition are received. If a timely objection is not received, or if received and withdrawn, and the request of the petition is denied without hearing, the petitioner may request within 30 days of receiving the notice of denial, and shall be granted, a contested case hearing on the 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.

(2) To conduct joint hearings with any federal agency or commission within or without the state and participate in any proceedings before any federal agency or commission 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; 1976 c 166 s 10; 1977 c 346 s 11; 1977 c 364 s 3]

216A.06 DIRECTOR. Subdivision 1. **Establishment of office, appointment.** The office of director of the department of public service is hereby established. He shall be appointed by the governor under the provisions of section 15.06.

MINNESOTA STATUTES 1978

3229

DEPARTMENT OF PUBLIC SERVICE, ORGANIZATION 216A.12

Subd. 2. [Repealed, 1977 c 305 s 46]

[1967 c 864 s 6; 1976 c 166 s 11; 1977 c 305 s 27]

216A.07 DIRECTOR; POWERS AND DUTIES. 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 this chapter. The director may:

(1) Prepare all forms or blanks for the purpose of obtaining information which he may deem necessary or useful in the proper exercise of his authority and duties in connection with regulated businesses;

(2) Prescribe the time and manner within which forms or blanks shall be filed with the department;

(3) Inspect at all reasonable times, and copy the books, records, memoranda and correspondence or other documents and records of any person relating to any regulated business; and

(4) Cause the deposition to be taken of any person concerning the business and affairs of any business regulated by the department. Information sought through said deposition shall be for a lawfully authorized purpose and shall be relevant and material to the investigation or hearing before the commission. Information obtained from said deposition shall be used by the department only for a lawfully authorized purpose and pursuant to powers and responsibilities conferred upon the department. Said deposition is to be taken in the manner prescribed by law for taking depositions in civil actions in the district court.

[1967 c 864 s 7; 1969 c 1031 s 3; 1976 c 166 s 12; 1977 c 364 s 4]

216A.08 CONTINUATION OF RULES OF PUBLIC SERVICE DEPARTMENT.

All valid rules, regulations, orders and directives heretofore enforced, issued or promulgated by the public service department under authority of chapters 218, 219, 221, or 222 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 or the commissioner of transportation.

[1967 c 864 s 8; 1976 c 166 s 13]

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 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 commissioner of transportation, 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; 1976 c 166 s 6 subd 3]

MINNESOTA STATUTES 1978

216A.13 DEPARTMENT OF PUBLIC SERVICE, ORGANIZATION

3230

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]