

opsis is a truthful statement of the contents and purpose of the proposed amendment. Accordingly, I, submit, for use as provided by law, the following certification:

"I Edward C. Turner, Attorney General of the State of Ohio, do hereby certify that the foregoing is a fair and impartial synopsis and is a truthful statement of the contents and purpose of the proposed amendment of Section 2, Article XVII of the Constitution of Ohio. Edward C. Turner, Attorney General."

Respectfully,

EDWARD C. TURNER,  
*Attorney General.*

2428.

DISAPPROVAL, SYNOPSIS OF PROPOSED LAW TO AMEND SECTIONS OF THE GENERAL CODE RELATING TO PUBLIC UTILITIES COMMISSION, THE NUMBER OF MEMBERS THEREOF, THEIR QUALIFICATIONS, POWERS, DUTIES, ETC.

SYLLABUS.

*Disapproving synopsis of proposed law to amend Sections 487, 606, 614-20, 2250-2 of the General Code and to enact Sections 499-3a and 614-20a of the General Code, relating to the Public Utilities Commission of Ohio, the number of members thereof, their qualifications, powers and duties, etc.*

COLUMBUS, OHIO, August 6, 1928.

MR. CHARLES H. HUBBELL, *Attorney at Law*, 630 *Engineers Building*, *Cleveland, Ohio*.

DEAR SIR:—You have submitted to me under date of July 27, 1928, for my certification under the provisions of Section 5175-29e, General Code, a synopsis of a proposed law to be embodied in an initiative petition. The pertinent part of Section 5175-29e is as follows:

"Whoever proposes to file an initiative or referendum petition may submit to the attorney general a fair and impartial synopsis of such proposed law or amendments and if such synopsis is a truthful statement of the contents and purpose of such proposed law or amendment he shall so certify. Such synopsis together with the attorney general's certification may be printed in capital letters immediately following the notice provided for in Section 5175-29f. The text of the proposed law or amendment shall be printed in full at the end of each part of the petition."

The synopsis submitted is in the following language:

"Section 487 of the proposed law provides for the creation of The Public Utilities Commission of Ohio; provides that said commission may sue and be sued; provides that said commission shall consist of five (5) members; provides that members of said commission shall be appointed by the governor; provides that the members of said commission shall have certain powers and duties; provides that the three (3) members of said commission holding office at the time the act shall take effect shall continue in office for specified periods, as follows: One for not more than 6 years and not less than 5 years, one for not more than 5 years and not less than 4 years, one for not more than 4 years

and not less than 3 years; provides that the governor shall appoint two (2) additional members, as follows: One for not more than 3 years and not less than 2 years, one for not more than 2 years and not less than 1 year; provides that thereafter each member shall be appointed for a term of five (5) years; provides for the filling of vacancies; provides that one member, to be designated by the governor on the first day of February of each year, shall be the chairman of said commission until the first day of February of the following year; provides that not more than three (3) of said members shall belong to or be affiliated with the same political party; and provides that not more than three (3) of said members shall be of the same sex.

Section 499-3a of the proposed law provides that no commissioner and no other person employed by the commission shall, within two (2) years after he has ceased to be such, act as attorney or agent for, or be employed by, any person, partnership, corporation, or utility subject, in whole or in part, to regulation by the commission; provides that no person, partnership, corporation or utility, or agent thereof, shall employ any commissioner or any other person employed by the commission, within two (2) years after such commissioner or such other person ceases to be such; provides, as a penalty for the violation of any of the foregoing provisions, a fine of not less than five hundred dollars (\$500) nor more than two thousand dollars (\$2,000) or imprisonment for not more than (2) years, or both; and provides that each day's violation shall constitute a separate offense.

Section 606 of the proposed law provides that, for the purpose of maintaining The Public Utilities Commission of Ohio, a sum not exceeding two hundred and thirty-two thousand dollars (\$232,000) each year shall be apportioned among, assessed upon, and collected from the railroads and public utilities within the State instead of a sum not exceeding two hundred thousand dollars (\$200,000) each year as provided in original Section 606.

Section 614-20 of the proposed law provides that, unless otherwise ordered by the commission, no change shall be made in any rate, joint rate, toll, classification, charge or rental, except after thirty (30) days' notice in writing to the commission; provides that all proposed changes shall be plainly indicated upon existing schedules, or by filing new schedules thirty (30) days prior to the time when they are to take effect, but the commission may prescribe a less time when they may take effect, provided, however, that if the proposed change shall effect an increase in the rate, joint rate, toll, classification, charge or rental, application therefor shall be filed with the commission, and notice of such application published once each week for three (3) consecutive weeks shall be given; provides that whenever there shall be filed with the commission any application for an increase in any rate, joint rate, toll, classification, charge or rental, or stating any new regulation or practice affecting any existing rate, joint rate, toll, classification, charge or rental in force at the time this act takes effect, the commission shall have, and it is hereby given, authority, either upon complaint or upon its own initiative without complaint, at once, and if it so orders without answer or other form of pleading by the interested public utility, but upon reasonable notice, to enter upon a hearing concerning the propriety of such proposed rate, joint rate, toll, classification, charge, rental, regulation or practice; provides that, pending such hearing and the decision thereon, no increase shall be made by such public utility in such rate, joint rate, toll, classification, charge, rental, regulation or practice; provides that such hearing shall be held, and decision on the proposed change be made not more than one (1) year after publication

of notice; provides that all rates, joint rates, tolls, classifications, charges or rentals of a public utility fixed and determined by any order of the commission shall be in force and be prima facie lawful for two (2) years from their effective date or until changed or modified as provided by law, provided, however, that after any such rate, joint rate, toll, classification, charge or rental shall have been in force for a period of two (2) years, the same may be changed by the public utility affected and that nothing herein contained shall be construed as in any way affecting the right of any person or public utility to make application for an order rescinding, altering or amending any order of the commission within said two (2) year period or thereafter; and provides that, at any hearing involving a rate increased or sought to be increased, the burden of proof to show that the increased rate or the proposed increased rate is just and reasonable shall be upon the public utility and that the commission shall give to the hearing and decision of such questions, preference over other questions pending before it, and decide the same as speedily as possible.

Section 614-20a of the proposed law provides that whoever, being a public utility, whose rates of charge for services are under the jurisdiction of The Public Utilities Commission of Ohio, puts into effect or operation any increase in rates of charge for service without the formal approval and order of said commission, shall be fined not less than five hundred dollars (\$500) nor more than two thousand dollars \$(2,000), and each day's violation shall constitute a separate offense.

Section 2250-2 of the proposed law provides that each of the members of The Public Utilities Commission of Ohio shall receive an annual salary of ten thousand dollars (\$10,000), instead of six thousand dollars (\$6,000) as provided in original Section 2250-2.

Section 2 of the proposed law provides that original Sections 487, 606, 614-20 and 2250-2 of the General Code are repealed.

Section 3 of the proposed law provides that all sections or parts of sections of the General Code in conflict with this Act are repealed."

I am expressing no opinion as to the form of the petition or as to the constitutionality of any portion of the proposed law.

There are two particulars in which the synopsis fails to accurately state the contents of the proposed law, to-wit:

1st. Section 499-3a of the proposed law contains the restriction of employment of commissioners and employes of the commission within two years after they cease to be such commissioners or employes. The proposed law specifies the employes to which this section applies, as follows:

"No former commissioner and no other person formerly employed by the commissioners as attorney, officer, examiner, expert, engineer, statistician, accountant, inspector, clerk or stenographer,"

and contains no general language. This section is a criminal statute and for that reason must be strictly construed. The language used in the synopsis to describe this provision of law is as follows:

"Section 499-3a of the proposed law provides that no commissioner and no other person employed by the commission shall, within two (2) years after he has ceased to be such," etc.

It will thus be seen that the synopsis contains general language embracing all employes of the commission, whereas the act itself, because of the particularity with which it designates the employes in question, may not embrace all employes of the commission.

2nd. Section 614-20 of the proposed law applies to the change of existing rates by public utilities. Under the proposed law an increase in rate by a public utility may only be effected by application to the commission and published notice of the proposed change. While the provision of the existing law permitting a public utility to change a rate fixed by the commission after the same shall have been in force and effect for a period of two years is left in the proposed law, it does contain the language "the same may be changed by the public utility affected in the manner provided in this section." The only manner provided in the section for effecting an increase in rate is by application to the commission and published notice, as above set out. However, the synopsis contains the following language:

"Provided, however, that after any such rate, joint rate, toll, classification, charge or rental shall have been in force for a period of two years, the same may be changed by the public utility affected."

In this respect the synopsis appears to be somewhat misleading because the change of a rate by the public utility affected is quite different from a change of a rate by the commission upon application, notice and hearing.

I therefore suggest that in Section 499-3a of the proposed law the words "and no other person" be omitted and that the exact language of the law specifying the positions to which the proposed act applies be substituted therefor.

I further suggest that in Section 614-20 appropriate language be added to show that an increase in rate, even after the two year period, may only be effected by the public utility upon application to the commission and the publication of notice.

With these changes I believe the synopsis would be a truthful statement of the contents and purposes of the proposed law.

I am, therefore, returning the petition submitted to me without my certification.

Respectfully,

EDWARD C. TURNER,  
*Attorney General.*

2429.

APPROVAL, SYNOPSIS OF PROPOSED LAW FIXING TERMS OF OFFICE  
AND QUALIFICATIONS OF STATE OFFICERS, PROBATE JUDGES  
AND COUNTY COMMISSIONERS.

*SYLLABUS:*

*Approving synopsis of proposed law fixing terms of office and qualifications of state officers, probate judges and county commissioners.*

COLUMBUS, OHIO, August 6, 1928.

MR. CHARLES H. HUBBELL, *Attorney at Law*, 630 *Engineers Building*, *Cleveland, Ohio.*

DEAR SIR:—You have submitted to me under date of July 30, 1928, for my certification under the provisions of Section 5175-29e, General Code, a synopsis of a proposed law to be embodied in an initiative petition. The pertinent part of Section 5175-29e is as follows: