



2024 South Dakota Legislature

Senate Bill 177

HOUSE ENGROSSED

Introduced by: **Senator Schoenbeck**

1 **An Act to permit the appointment of a circuit court judge or Supreme Court justice**
 2 **as a member of the Public Utilities Commission in place of a disqualified or**
 3 **incapacitated commissioner.**

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

5 **Section 1. That § 49-1-9 be AMENDED:**

6 **49-1-9.** Such Public Utilities Commission may in all cases conduct its proceedings,
 7 when not otherwise particularly prescribed by law, in such manner and places as will best
 8 conduce to the proper dispatch of business and to the ends of justice.

9 A majority of the commissioners shall constitute a quorum for the transaction of
 10 business, but no commissioner shall participate in any hearing or proceeding in which he
 11 has any conflict of interest or if he is temporarily incapacitated. If a commissioner
 12 determines that he is incapacitated or disqualified from participating for any reason in any
 13 hearing or proceeding, he shall certify that determination to the Governor, or if the
 14 character of the incapacity of any commissioner is such that he is unable to certify his
 15 incapacity to the Governor, the commission may make such certification. In the event of
 16 any such certification, the Governor shall then appoint an elected constitutional officer,
 17 other than the attorney general, to act as a member of the commission in place of the
 18 disqualified or incapacitated commissioner for the purpose of such hearing or proceeding
 19 only. If all elected constitutional officers, other than the attorney general, have certified
 20 to the Governor that the elected constitutional officers are disqualified or otherwise decline
 21 the appointment, the Governor may appoint a retired South Dakota circuit judge or retired
 22 South Dakota Supreme Court justice to act. If a retired judge or retired supreme court
 23 justice is appointed, the judge or justice must be compensated at the rate paid by the
 24 Unified Judicial System for compensation of retired judges and justices sitting for a
 25 recused judge or justice.