

SECOND REGULAR SESSION

SENATE BILL NO. 1209

91ST GENERAL ASSEMBLY

INTRODUCED BY SENATORS GOODE AND SIMS.

Read 1st time February 25, 2002, and 1,000 copies ordered printed.

TERRY L. SPIELER, Secretary.

4826S.02I

AN ACT

To repeal sections 386.120, 386.130 and 386.210, RSMo, relating to the public service commission, and to enact in lieu thereof three new sections relating to the same subject.

Be it enacted by the General Assembly of the State of Missouri, as follows:

Section A. Sections 386.120, 386.130 and 386.210, RSMo, are repealed and three new sections enacted in lieu thereof, to be known as sections 386.120, 386.130 and 386.210, to read as follows:

386.120. 1. The principal office of the commission shall be at the state capital at the city of Jefferson City. The commissioners shall reside within [a forty-mile radius of the city of Jefferson City] **the state of Missouri** during their respective terms of office. The office required by this subsection shall be provided and assigned by the board of public buildings.

2. The commission shall at all times, except Saturdays, Sundays and legal holidays, be open and in session for the transaction of business and the commissioners shall devote their entire time to the duties of their office.

3. The commission shall have an official seal bearing the following inscription: "Public Service Commission of the State of Missouri". The seal shall be affixed to all writs and authentications of copies of records and to such other instruments as the commission shall direct. All courts shall take judicial notice of such seal.

EXPLANATION--Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

4. The commission may sue and be sued in its official name. The offices of said commission shall be supplied with all necessary books, maps, charts, stationery, office furniture, telephone and telegraph connections, and all other necessary appliances and incidentals, to be paid for in the same manner as other expenses authorized by this chapter.

5. The offices of the commission shall be open during business hours on all days except Saturdays, Sundays and legal holidays, and one or more responsible persons, designated by the commission or by the secretary, under the direction of the commission, shall be on duty at all times, in immediate charge thereof.

6. Any summons or other writ issued by any court of this state or of the federal government shall be served upon the secretary of the commission or on any commissioner at the principal office of the commission in Jefferson City. Service of any summons or other writ upon the secretary of the commission, or upon any single commissioner, shall constitute service upon the entire commission.

386.130. The commission shall promptly and duly organize. A majority of the commissioners shall constitute a quorum for the transaction of any business, for the performance of any duty or for the exercise of any power of the commission, and may hold meetings of the commission at any time or place within the state. Any investigation, inquiry or hearing which the commission has power to undertake or to hold may be undertaken or held by or before any commissioner. All investigations, inquiries, hearings and decisions of a commissioner shall be and be deemed to be the investigations, inquiries, hearings and decisions of the commission, and every order and decision made by a commissioner, when approved and confirmed by the commission and ordered filed in its office, shall be and be deemed to be the order of the commission. **The commission shall have the authority to retain an independent, technical advisory staff, consisting of five full-time employees who shall be selected and compensated through the concurrence of all commissioners. Such staff shall be comprised of at least one licensed attorney, one certified public accountant, one professional engineer and one person with educational training or experience in finance or economics. It shall be the duty of the technical advisory staff to render advice and assistance to the commissioners and the administrative law judges on technical matters within their respective areas of expertise that may arise during the**

course of proceedings before the commission. The technical advisory staff shall also update the commission and administrative law judges periodically on developments and trends in public utility regulation, including updates comparing the use, nature and effect of various regulatory practices and procedures as employed by the commission and public utility commissions in other jurisdictions. Each member of the technical advisory staff shall be subject to any applicable ex parte or conflict of interest requirements in the same manner and to the same degree as any commissioner, provided that neither any person regulated by, appearing before, or employed by the commission shall be permitted to offer such member a different position, appointment or position during that member's tenure on the technical advisory staff.

386.210. 1. The commission may confer in person, or by correspondence, by attending conventions, or in any other way, with the members of **the public**, any public utility or similar commission of **this and** other states and the United States of America, or any official, agency or instrumentality thereof, on any matter relating to the performance of its duties. **Notwithstanding any other provision of law or rule to the contrary, such communications may address any matter that, at the time of such communication, is not the subject of a pending filing or case before the commission. Such communications may also address substantive or procedural matters that are the subject of a pending filing or case in which no evidentiary hearing has been scheduled, provided that the communication is made at a public agenda meeting of the commission where such matter has been posted in advance as an item for discussion or decision, is made at a forum where representatives of the public utility affected thereby, the staff of the commission, the office of the public counsel and any necessary party are present, or, if made outside such agenda meeting or forum, is subsequently disclosed to the public utility, the staff of the commission, the office of the public counsel and any necessary party in accordance with the following procedure. If the communication is written, the person or party making the communication shall no later than the next business day following the communication file a copy of the written communication in the official case file of the pending filing or case and serve it upon all parties of record. If the communication is oral, the party making the oral communication shall no later than the next business day following the communication file a memorandum in**

the official case file of the pending case disclosing the communication and serve such memorandum on all parties of record. The memorandum must contain a summary of the substance of the communication and not merely a listing of the subjects covered. Nothing in this section or any other provision of law shall be construed as imposing any limitation on the free exchange of ideas, views and information between any person and the commission or any commissioner, provided that such communications relate to matters of general regulatory policy and do not address the merits of the specific facts, evidence, claims or positions presented or taken in a pending case. The commission and any commissioner may also advise any member of the general assembly or other governmental official of the issues or factual allegations that are the subject of a pending case, provided that the commission or commissioner does not express an opinion as to the merits of such issues or allegations, and may discuss in a public agenda meeting with parties to a case in which an evidentiary hearing has been scheduled any procedural matter in such case or any matter relating to a unanimous stipulation or agreement resolving all of the issues in such case.

2. The commission may enter into and establish fair and equitable cooperative agreements or contracts with or act as an agent or licensee for the United States of America, or any official, agency or instrumentality thereof, or any public utility or similar commission of other states, that are proper, expedient, fair and equitable and in the interest of the state of Missouri and the citizens thereof, for the purpose of carrying out its duties under section 386.250 as limited and supplemented by section 386.030 and to that end the commission may receive and disburse any contributions, grants or other financial assistance as a result of or pursuant to such agreements or contracts. Any contributions, grants or other financial assistance so received shall be deposited in the public service commission utility fund or the state highway commission fund depending upon the purposes for which they are received.

3. The commission may make joint investigations, hold joint hearings within or without the state, and issue joint or concurrent orders in conjunction or concurrence with any railroad, public utility or similar commission, of other states or the United States of America, or any official, agency or any instrumentality thereof, except that in the holding of such investigations or hearings, or in the making of such orders, the commission shall function under

agreements or contracts between states or under the concurrent power of states to regulate interstate commerce, or as an agent of the United States of America, or any official, agency or instrumentality thereof, or otherwise.

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