

FIRST REGULAR SESSION
SENATE COMMITTEE SUBSTITUTE FOR
SENATE BILL NO. 246
92ND GENERAL ASSEMBLY

Reported from the Committee on Commerce and the Environment, January 30, 2003, with recommendation that the Senate Committee Substitute do pass.

TERRY L. SPIELER, Secretary.

0728S.07C

AN ACT

To repeal sections 386.050, 386.120, and 386.210, RSMo, and to enact in lieu thereof four new sections relating to the public service commission.

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

Section A. Sections 386.050, 386.120, and 386.210, RSMo, are repealed and four new sections enacted in lieu thereof, to be known as sections 386.050, 386.120, 386.135, and 386.210, to read as follows:

386.050. **1.** The commission shall consist of five members who shall be appointed by the governor, with the advice and consent of the senate, and one of whom shall be designated by the governor to be [chairman] **chair** of [said] **the** commission. Each commissioner, at the time of [his] **the commissioner's** appointment and qualification, shall be a resident of the state of Missouri, and shall have resided in [said] **the** state for a period of at least five years next preceding [his] **the** appointment and qualification, and [he] shall also be a qualified voter therein and not less than twenty-five years of age. Upon the expiration of each of the terms of office of the first commissioners, the term of office of each commissioner thereafter appointed shall be six years from the time of [his] **the commissioner's** appointment and qualification and until his successor shall qualify. Vacancies in [said] **the** commission shall be filled by the governor for the unexpired term.

2. No member of the commission or technical advisory staff shall establish or maintain a committee that is regulated by campaign finance disclosure law in chapter 130, RSMo. Nor shall any member of the commission or technical advisory staff make

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

any contribution to a committee that is regulated by campaign finance disclosure law pursuant to chapter 130, RSMo.

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.

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.

386.135. 1. The commission shall have an independent technical advisory staff of six full time employees. The advisory staff shall have expertise in accounting, economics, finance, engineering/utility operations, law, and public policy.

2. In addition, each commissioner shall also have the authority to retain one personal advisor, who shall be deemed a member of the technical advisory staff. The personal advisors will serve at the pleasure of the individual commissioner whom they serve and shall possess expertise in one or more of the following fields: accounting, economics, finance, engineering/utility operations, law, and public policy.

3. The commission shall only hire technical advisory staff pursuant to subsections 1 and 2 of this section if there is a corresponding elimination in comparable staff positions for commission staff to offset the hiring of such technical

advisory staff on a cost neutral basis. Such technical advisory staff shall be hired on or before July 1, 2004.

4. It shall be the duty of the technical advisory staff to render advice and assistance to the commissioners and the commission's hearing officers on technical matters within their respective areas of expertise that may arise during the course of proceedings before the commission.

5. The technical advisory staff shall also update the commission and the commission's hearing officers 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.

6. 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 appointment or position during that member's tenure on the technical advisory staff.

7. No employee of a company or corporation regulated by the public service commission, no employee of the office of public counsel or the public counsel, and no staff members of either the utility operations division or utility services division, who, were an employee or staff member on, during the two years immediately preceding, or anytime after August 28, 2003, may be a member of the commission's technical advisory staff for two years following the termination of their employment with the corporation, office of public counsel or commission staff member.

8. The technical advisory staff shall never be a party to any case before the commission.

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.

2. Such communications may address any issue that at the time of such communication is not the subject of a case that has been filed with the commission.

3. 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:

(1) 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;

(2) Is made at a forum where representatives of the public utility affected thereby, the office of public counsel, and any other party to the case are present; or

(3) If made outside such agenda meeting or forum, is subsequently disclosed to the public utility, the office of the public counsel, and any other party to the case in accordance with the following procedure:

(a) 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;

(b) 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.

4. 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 unless such communications comply with the provisions of subsection 3 of this section.

5. 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.] 6. 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] pursuant to 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.] 7. 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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