

SECOND REGULAR SESSION

# SENATE BILL NO. 1550

## 103RD GENERAL ASSEMBLY

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INTRODUCED BY SENATOR CRAWFORD.

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KRISTINA MARTIN, Secretary

### AN ACT

To repeal sections 386.370 and 393.140, RSMo, and to enact in lieu thereof two new sections relating to certain declarations made to the public service commission, with penalty provisions.

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

Section A. Sections 386.370 and 393.140, RSMo, are  
2 repealed and two new sections enacted in lieu thereof, to be  
3 known as sections 386.370 and 393.140, to read as follows:

386.370. 1. The commission shall, prior to the  
2 beginning of each fiscal year beginning with the fiscal year  
3 commencing on July 1, 1947, make an estimate of the expenses  
4 to be incurred by it during such fiscal year reasonably  
5 attributable to the regulation of public utilities as  
6 provided in chapters 386, 392 and 393 and shall also  
7 separately estimate the amount of such expenses directly  
8 attributable to such regulation of each of the following  
9 groups of public utilities: electrical corporations, gas  
10 corporations, water corporations, heating companies and  
11 telephone corporations, telegraph corporations, sewer  
12 corporations, and any other public utility as defined in  
13 section 386.020, as well as the amount of such expenses not  
14 directly attributable to any such group. For purposes of  
15 this section, water corporations and sewer corporations will  
16 be combined and considered one group of public utilities.

17        2. The commission shall allocate to each such group of  
18 public utilities the estimated expenses directly  
19 attributable to the regulation of such group and an amount  
20 equal to such proportion of the estimated expenses not  
21 directly attributable to any group as the gross intrastate  
22 operating revenues of such group during the preceding  
23 calendar year bears to the total gross intrastate operating  
24 revenues of all public utilities subject to the jurisdiction  
25 of the commission, as aforesaid, during such calendar year.  
26 The commission shall then assess the amount so allocated to  
27 each group of public utilities, subject to reduction as  
28 herein provided, to the public utilities in such group in  
29 proportion to their respective gross intrastate operating  
30 revenues during the preceding calendar year, except that the  
31 total amount so assessed to all such public utilities,  
32 except telecommunications corporations, shall not exceed  
33 four hundred fifty thousandths of one percent of the total  
34 gross intrastate operating revenues of all public utilities,  
35 except telecommunications corporations, subject to the  
36 jurisdiction of the commission. The total amount to be  
37 assessed to all telecommunications corporations, including  
38 interconnected voice over internet protocol service  
39 providers, shall not exceed two hundred fifty thousandths of  
40 one percent of the total gross intrastate operating revenues  
41 of all telecommunications corporations and interconnected  
42 voice over internet protocol service providers subject to  
43 the jurisdiction of the commission.

44        3. The commission shall render a statement of such  
45 assessment to each such public utility on or before July  
46 first and the amount so assessed to each such public utility  
47 shall be paid by it to the director of revenue in full on or  
48 before July fifteenth next following the rendition of such

49 statement, except that any such public utility may at its  
50 election pay such assessment in four equal installments not  
51 later than the following dates next following the rendition  
52 of said statement, to wit: July fifteenth, October  
53 fifteenth, January fifteenth and April fifteenth. The  
54 director of revenue shall remit such payments to the state  
55 treasurer.

56 4. The state treasurer shall credit such payments to a  
57 special fund, which is hereby created, to be known as "The  
58 Public Service Commission Fund", which fund, or its  
59 successor fund created pursuant to section 33.571, shall be  
60 devoted solely to the payment of expenditures actually  
61 incurred by the commission and attributable to the  
62 regulation of such public utilities subject to the  
63 jurisdiction of the commission, as aforesaid. Any amount  
64 remaining in such special fund or its successor fund at the  
65 end of any fiscal year shall not revert to the general  
66 revenue fund, but shall be applicable by appropriation of  
67 the general assembly to the payment of such expenditures of  
68 the commission in the succeeding fiscal year and shall be  
69 applied by the commission to the reduction of the amount to  
70 be assessed to such public utilities in such succeeding  
71 fiscal year, such reduction to be allocated to each group of  
72 public utilities in proportion to the respective gross  
73 intrastate operating revenues of the respective groups  
74 during the preceding calendar year.

75 5. In order to enable the commission to make the  
76 allocations and assessments herein provided for, each public  
77 utility subject to the jurisdiction of the commission as  
78 aforesaid shall file with the commission, within ten days  
79 after August 28, 1996, and thereafter on or before March  
80 thirty-first of each year, a statement under oath, **or**

81 **otherwise satisfied by a declaration that the statement is**  
82 **made under penalty of perjury pursuant to section 509.030,**  
83 showing its gross intrastate operating revenues for the  
84 preceding calendar year, and if any public utility shall  
85 fail to file such statement within the time aforesaid the  
86 commission shall estimate such revenue which estimate shall  
87 be binding on such public utility for the purpose of this  
88 section.

393.140. The commission shall:

2 (1) Have general supervision of all gas corporations,  
3 electrical corporations, water corporations and sewer  
4 corporations having authority under any special or general  
5 law or under any charter or franchise to lay down, erect or  
6 maintain wires, pipes, conduits, ducts or other fixtures in,  
7 over or under the streets, highways and public places of any  
8 municipality, for the purpose of furnishing or distributing  
9 water or gas or of furnishing or transmitting electricity  
10 for light, heat or power, or maintaining underground  
11 conduits or ducts for electrical conductors, or for the  
12 purpose of collecting, carrying, treating, or disposing of  
13 sewage, and all gas plants, electric plants, water systems  
14 and sewer systems owned, leased or operated by any gas  
15 corporation, electrical corporation, water corporation, or  
16 sewer corporation.

17 (2) Investigate and ascertain, from time to time, the  
18 quality of gas or water supplied and sewer service furnished  
19 by persons and corporations, examine or investigate the  
20 methods employed by such persons and corporations in  
21 manufacturing, distributing and supplying gas or electricity  
22 for light, heat or power and in transmitting the same, and  
23 in supplying and distributing water for any purpose  
24 whatsoever, and in furnishing a sewer system, and have power

25 to order such reasonable improvements as will best promote  
26 the public interest, preserve the public health and protect  
27 those using such gas, electricity, water, or sewer system,  
28 and those employed in the manufacture and distribution  
29 thereof, and have power to order reasonable improvements and  
30 extensions of the works, wires, poles, pipes, lines,  
31 conduits, ducts and other reasonable devices, apparatus and  
32 property of gas corporations, electrical corporations, water  
33 corporations, and sewer corporations.

34 (3) Have power, by order, to fix from time to time  
35 standards for the measurement of the purity or illuminating  
36 power of gas to be manufactured, distributed or sold by  
37 persons or corporations for lighting, heating or power  
38 purposes, to prescribe from time to time the efficiency of  
39 the electric supply system, of the current supplied and of  
40 the lamps furnished by the persons or corporations  
41 generating and selling electric current, and to fix from  
42 time to time standards for the measurement of the purity or  
43 pressure of water to be distributed or sold by persons or  
44 corporations for any purpose whatsoever, and to fix from  
45 time to time the standards for designing, constructing,  
46 operating and maintaining sewer systems of sewer  
47 corporations, including sewers, sewage pumping stations,  
48 sewage treatment works, primary treatment facilities, sludge  
49 digestion and disposal facilities, secondary treatment  
50 facilities, disinfection facilities, and any and all  
51 facilities related thereto; provided, however, that such  
52 standards shall be supplemental to and in no way set  
53 standards lesser than the minimum standards adopted by the  
54 state water pollution board, and by order to require gas so  
55 manufactured, distributed or sold to equal the standards so  
56 fixed by it, and to prescribe from time to time the

57 reasonable minimum and maximum pressure at which gas shall  
58 be delivered by said persons or corporations. For the  
59 purpose of determining whether the gas manufactured,  
60 distributed or sold by such persons or corporations for  
61 lighting, heating or power purposes conforms to the  
62 standards of illuminating power, purity and pressure, and  
63 for the purpose of determining whether the efficiency of the  
64 electric supply system, of the current supplied and of the  
65 lamps furnished, and for the purpose of determining whether  
66 the water furnished or sold conforms to the standard of  
67 purity and pressure, and for the purpose of determining  
68 whether the sewer system conforms to the standards for  
69 designing, constructing, operating and maintaining sewer  
70 systems, and conforms to the orders issued by the  
71 commission, the commission shall have power, of its own  
72 motion, to examine and investigate the plants and methods  
73 employed in manufacturing, delivering and supplying gas,  
74 electricity or water, and the collecting, carrying, treating  
75 and disposing of sewage, and shall have access, through its  
76 members or persons employed and authorized by it, to make  
77 such examinations and investigations to all parts of the  
78 manufacturing plants owned, used or operated for the  
79 manufacture, transmission or distribution of gas or  
80 electricity by any such person or corporation, and to all  
81 parts of the systems owned, used or operated for the  
82 supplying and distribution of water and the collecting,  
83 carrying, treating and disposing of sewage by any such  
84 person or corporation. Any employee or agent of the  
85 commission who divulges any fact or information which may  
86 come to his knowledge during the course of any such  
87 inspection or examination, except insofar as he may be

88 directed by the commission, or by a court or judge thereof,  
89 or authorized by law, shall be guilty of a misdemeanor.

90 (4) Have power, in its discretion, to prescribe  
91 uniform methods of keeping accounts, records and books, to  
92 be observed by gas corporations, electrical corporations,  
93 water corporations and sewer corporations engaged in the  
94 manufacture, sale or distribution of gas and electricity for  
95 light, heat or power, or in the distribution and sale of  
96 water for any purpose whatsoever, or in the collection,  
97 carriage, treatment and disposal of sewage for municipal,  
98 domestic or other necessary beneficial purpose. It may  
99 also, in its discretion, prescribe, by order, forms of  
100 accounts, records and memoranda to be kept by such persons  
101 and corporations. Notice of alterations by the commission  
102 in the required method or form of keeping a system of  
103 accounts shall be given to such persons or corporations by  
104 the commission at least six months before the same shall  
105 take effect. Any other and additional forms of accounts,  
106 records and memoranda kept by such corporation shall be  
107 subject to examination by the commission.

108 (5) Examine all persons and corporations under its  
109 supervision and keep informed as to the methods, practices,  
110 regulations and property employed by them in the transaction  
111 of their business. Whenever the commission shall be of the  
112 opinion, after a hearing had upon its own motion or upon  
113 complaint, that the rates or charges or the acts or  
114 regulations of any such persons or corporations are unjust,  
115 unreasonable, unjustly discriminatory or unduly preferential  
116 or in any wise in violation of any provision of law, the  
117 commission shall determine and prescribe the just and  
118 reasonable rates and charges thereafter to be in force for  
119 the service to be furnished, notwithstanding that a higher

120 rate or charge has heretofore been authorized by statute,  
121 and the just and reasonable acts and regulations to be done  
122 and observed; and whenever the commission shall be of the  
123 opinion, after a hearing had upon its own motion or upon  
124 complaints, that the property, equipment or appliances of  
125 any such person or corporation are unsafe, insufficient or  
126 inadequate, the commission shall determine and prescribe the  
127 safe, efficient and adequate property, equipment and  
128 appliances thereafter to be used, maintained and operated  
129 for the security and accommodation of the public and in  
130 compliance with the provisions of law and of their  
131 franchises and charters.

132 (6) Require every person and corporation under its  
133 supervision and it shall be the duty of every person and  
134 corporation to file with the commission an annual report,  
135 verified by the oath, **or otherwise satisfied by a**  
136 **declaration that the statement is made under penalty of**  
137 **perjury pursuant to section 509.030**, of the president,  
138 treasurer, general manager or receiver, if any, thereof.  
139 The verification shall be made by said official holding  
140 office at the time of the filing of said report, and if not  
141 made upon the knowledge of the person verifying the same,  
142 shall set forth the sources of his information and the  
143 grounds of his belief as to any matters not stated to be  
144 verified upon his knowledge. The report shall show in  
145 detail the amount of its authorized capital stock and the  
146 amount thereof issued and outstanding; the amount of its  
147 authorized bonded indebtedness and the amount of its bonds  
148 and other forms of evidence of indebtedness issued and  
149 outstanding; its receipts and expenditures during the  
150 preceding year; the amount paid as dividends upon its stock  
151 and as interest upon its bonds; the names of its officers

152 and the aggregate amount paid as salaries to them and the  
153 amount paid as wages to its employees; the location of its  
154 plant or plants and system, with a full description of its  
155 property and franchises, stating in detail how each  
156 franchise stated to be owned was acquired; and such other  
157 facts pertaining to the operation and maintenance of the  
158 plant and system, and the affairs of such person or  
159 corporation as may be required by the commission. Such  
160 reports shall be in the form, cover the period and be filed  
161 at the time prescribed by the commission. The commission  
162 may, from time to time, make changes and additions in such  
163 forms. When any such report is defective or believed to be  
164 erroneous, the commission shall notify the person or  
165 corporation making such report to amend the same within a  
166 time prescribed by the commission. Any such person or  
167 corporation which shall neglect to make any such report or  
168 which shall fail to correct any such report within the time  
169 prescribed by the commission shall be liable to a penalty of  
170 one hundred dollars and an additional penalty of one hundred  
171 dollars for each day after the prescribed time for which it  
172 shall neglect to file or correct the same, to be sued for in  
173 the name of the state of Missouri. The amount recovered in  
174 any such action shall be paid to the public school fund of  
175 the state. The commission may extend the time prescribed for  
176 cause shown.

177 (7) Have power, either through its members or  
178 inspectors or employees duly authorized by it, to enter in  
179 or upon and to inspect the property, buildings, plants,  
180 factories, powerhouses, ducts, conduits and offices of any  
181 such corporations or persons.

182 (8) Have power to examine the accounts, books,  
183 contracts, records, documents and papers of any such

184 corporation or person, and have power, after hearing, to  
185 prescribe by order the accounts in which particular outlays  
186 and receipts shall be entered, charged or credited.

187 (9) Have power to compel, by subpoena duces tecum, the  
188 production of any accounts, books, contracts, records,  
189 documents, memoranda and papers. In lieu of requiring  
190 production of originals by subpoena duces tecum the  
191 commission or any commissioner may require sworn copies of  
192 any such books, records, contracts, documents and papers, or  
193 parts thereof, to be filed with it. The commission may  
194 require of all such corporations or persons specific answers  
195 to questions upon which the commission may need information,  
196 and may also require such corporations or persons to file  
197 periodic reports in the form, covering the period and filed  
198 at the time prescribed by the commission. If such  
199 corporation or person shall fail to make specific answer to  
200 any question or shall fail to make a periodic report when  
201 required by the commission as herein provided within the  
202 time and in the form prescribed by the commission for the  
203 making and filing of any such report or answer, such  
204 corporation or person shall forfeit to the state the sum of  
205 one hundred dollars for each and every day it shall continue  
206 to be in default with respect to such report or answer.  
207 Such forfeiture shall be recovered in an action brought by  
208 the commission in the name of the state of Missouri. The  
209 amount recovered in any such action shall be paid to the  
210 public school fund of the state.

211 (10) Have power in all parts of the state, either as a  
212 commission or through its members, to subpoena witnesses,  
213 take testimony and administer oaths to witnesses in any  
214 proceeding or examination instituted before it, or conducted

215 by it, in reference to any matter under sections 393.110 to  
216 393.285.

217 (11) Have power to require every gas corporation,  
218 electrical corporation, water corporation, and sewer  
219 corporation to file with the commission and to print and  
220 keep open to public inspection schedules showing all rates  
221 and charges made, established or enforced or to be charged  
222 or enforced, all forms of contract or agreement and all  
223 rules and regulations relating to rates, charges or service  
224 used or to be used, and all general privileges and  
225 facilities granted or allowed by such gas corporation,  
226 electrical corporation, water corporation, or sewer  
227 corporation; but this subdivision shall not apply to state,  
228 municipal or federal contracts. Unless the commission  
229 otherwise orders, no change shall be made in any rate or  
230 charge, or in any form of contract or agreement, or any rule  
231 or regulation relating to any rate, charge or service, or in  
232 any general privilege or facility, which shall have been  
233 filed and published by a gas corporation, electrical  
234 corporation, water corporation, or sewer corporation in  
235 compliance with an order or decision of the commission,  
236 except after thirty days' notice to the commission and  
237 publication for thirty days as required by order of the  
238 commission, which shall plainly state the changes proposed  
239 to be made in the schedule then in force and the time when  
240 the change will go into effect. The commission for good  
241 cause shown may allow changes without requiring the thirty  
242 days' notice under such conditions as it may prescribe. No  
243 corporation shall charge, demand, collect or receive a  
244 greater or less or different compensation for any service  
245 rendered or to be rendered than the rates and charges  
246 applicable to such services as specified in its schedule

247 filed and in effect at the time; nor shall any corporation  
248 refund or remit in any manner or by any device any portion  
249 of the rates or charges so specified, nor to extend to any  
250 person or corporation any form of contract or agreement, or  
251 any rule or regulation, or any privilege or facility, except  
252 such as are regularly and uniformly extended to all persons  
253 and corporations under like circumstances. The commission  
254 shall have power to prescribe the form of every such  
255 schedule, and from time to time prescribe by order such  
256 changes in the form thereof as may be deemed wise. The  
257 commission shall also have power to establish such rules and  
258 regulations, to carry into effect the provisions of this  
259 subdivision, as it may deem necessary, and to modify and  
260 amend such rules or regulations from time to time.

261 (12) In case any electrical corporation, gas  
262 corporation, water corporation or sewer corporation engaged  
263 in carrying on any other business than owning, operating or  
264 managing a gas plant, electric plant, water system or sewer  
265 system which other business is not otherwise subject to the  
266 jurisdiction of the commission, and is so conducted that its  
267 operations are to be substantially kept separate and apart  
268 from the owning, operating, managing or controlling of such  
269 gas plant, electric plant, water system or sewer system,  
270 said corporation in respect to such other business shall not  
271 be subject to any of the provisions of this chapter and  
272 shall not be required to procure the consent or  
273 authorization of the commission to any act in such other  
274 business or to make any report in respect thereof. But this  
275 subdivision shall not restrict or limit the powers of the  
276 commission in respect to the owning, operating, managing or  
277 controlling by such corporation of such gas plant, electric  
278 plant, water system or sewer system, and said powers shall

279 include also the right to inquire as to, and prescribe the  
280 apportionment of, capitalization, earnings, debts and  
281 expenses fairly and justly to be awarded to or borne by the  
282 ownership, operation, management or control of such gas  
283 plant, electric plant, water system or sewer system as  
284 distinguished from such other business. In any such case if  
285 the owning, operating, managing or controlling of such gas  
286 plant, electric plant, water system or sewer system by any  
287 such corporation is wholly subsidiary and incidental to the  
288 other business carried on by it and is inconsiderable in  
289 amount and not general in its character, the commission may  
290 by general rules exempt such corporation from making full  
291 reports and from the keeping of accounts as to such  
292 subsidiary and incidental business.

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