

FIRST REGULAR SESSION

[PERFECTED]

HOUSE BILL NO. 1044

102ND GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE HAFFNER.

2258H.02P

DANA RADEMAN MILLER, Chief Clerk

AN ACT

To repeal sections 386.050, 386.370, and 393.135, 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Section A. Sections 386.050, 386.370, and 393.135, RSMo, are repealed and four
2 new sections enacted in lieu thereof, to be known as sections 386.050, 386.370, 393.135, and
3 393.1250, to read as follows:

386.050. The commission shall consist of [~~five~~] **eleven** members who shall be
2 appointed by the governor, with the advice and consent of the senate, **provided that at least**
3 **one but no more than two of whom shall be appointed from each congressional district**
4 and one of whom shall be designated by the governor to be chair of the commission. **At least**
5 **three members shall be actively engaged in production agriculture.** Each commissioner,
6 at the time of the commissioner's appointment and qualification, shall be a resident of the
7 state of Missouri, and shall have resided in the state for a period of at least five years next
8 preceding the appointment and qualification, and shall also be a qualified voter therein and
9 not less than twenty-five years of age. Upon the expiration of each of the terms of office of
10 the first commissioners, the term of office of each commissioner thereafter appointed shall be
11 six years from the time of the commissioner's appointment and qualification and until his
12 successor shall qualify. Vacancies in the commission shall be filled by the governor for the
13 unexpired term. **As used in this section, "production agriculture" means using or**
14 **cultivating land for the production of agricultural crops, livestock or livestock products,**

EXPLANATION — Matter enclosed in bold-faced brackets [~~thus~~] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

15 **poultry or poultry products, milk or dairy products, fruit or other horticultural**
16 **products, or fish or other aquaculture products.**

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

12 2. The commission shall allocate to each such group of public utilities the estimated
13 expenses directly attributable to the regulation of such group and an amount equal to such
14 proportion of the estimated expenses not directly attributable to any group as the gross
15 intrastate operating revenues of such group during the preceding calendar year bears to the
16 total gross intrastate operating revenues of all public utilities subject to the jurisdiction of the
17 commission, as aforesaid, during such calendar year. The commission shall then assess the
18 amount so allocated to each group of public utilities, subject to reduction as herein provided,
19 to the public utilities in such group in proportion to their respective gross intrastate operating
20 revenues during the preceding calendar year, except that the total amount so assessed to all
21 such public utilities shall not exceed three hundred fifteen thousandths of one percent of the
22 total gross intrastate operating revenues of all utilities subject to the jurisdiction of the
23 commission. **Beginning January 1, 2024, the total amount assessed on the total gross**
24 **intrastate operating revenues of all utilities subject to the jurisdiction of the commission**
25 **shall not exceed three hundred fifty thousandths of one percent and shall increase every**
26 **two years thereafter by one hundredth of one percent until such time as the maximum**
27 **amount available to be assessed is equal to one-half of one percent. All corporations**
28 **subject to the jurisdiction of the commission shall defer to an asset or liability account**
29 **any difference in the assessment actually incurred and those on which the revenue**
30 **requirement used to set rates in the corporation's most recently completed general rate**
31 **proceeding was based. The asset or liability account balances shall be included in the**
32 **revenue requirement used to set rates through an amortization over a reasonable period**
33 **of time in such corporation's subsequent general rate proceedings. The commission**
34 **shall also adjust the rate base used to establish the revenue requirement of the utility to**

35 **reflect the unamortized asset or liability account balances in such general rate**
36 **proceedings.**

37 3. The commission shall render a statement of such assessment to each such public
38 utility on or before July first and the amount so assessed to each such public utility shall be
39 paid by it to the director of revenue in full on or before July fifteenth next following the
40 rendition of such statement, except that any such public utility may at its election pay such
41 assessment in four equal installments not later than the following dates next following the
42 rendition of said statement, to wit: July fifteenth, October fifteenth, January fifteenth and
43 April fifteenth. The director of revenue shall remit such payments to the state treasurer.

44 4. The state treasurer shall credit such payments to a special fund, which is hereby
45 created, to be known as "The Public Service Commission Fund", which fund, or its successor
46 fund created pursuant to section 33.571, shall be devoted solely to the payment of
47 expenditures actually incurred by the commission and attributable to the regulation of such
48 public utilities subject to the jurisdiction of the commission, as aforesaid. Any amount
49 remaining in such special fund or its successor fund at the end of any fiscal year shall not
50 revert to the general revenue fund, but shall be applicable by appropriation of the general
51 assembly to the payment of such expenditures of the commission in the succeeding fiscal year
52 and shall be applied by the commission to the reduction of the amount to be assessed to such
53 public utilities in such succeeding fiscal year, such reduction to be allocated to each group of
54 public utilities in proportion to the respective gross intrastate operating revenues of the
55 respective groups during the preceding calendar year.

56 5. In order to enable the commission to make the allocations and assessments herein
57 provided for, each public utility subject to the jurisdiction of the commission as aforesaid
58 shall file with the commission, within ten days after August 28, 1996, and thereafter on or
59 before March thirty-first of each year, a statement under oath showing its gross intrastate
60 operating revenues for the preceding calendar year, and if any public utility shall fail to file
61 such statement within the time aforesaid the commission shall estimate such revenue which
62 estimate shall be binding on such public utility for the purpose of this section.

2 393.135. **Except as provided in section 393.1250**, any charge made or demanded by
3 an electrical corporation for service, or in connection therewith, which is based on the costs of
4 construction **work** in progress upon any existing or new ~~[facility of the]~~ electrical corporation
5 **facility**, or any other cost associated with owning, operating, maintaining, or financing any
6 property before it is fully operational and used for service, ~~[is unjust and unreasonable, and]~~ is
7 prohibited.

2 **393.1250. 1. This section shall be known and may be cited as the "Missouri**
3 **Nuclear Clean Power Act"**, the purpose of which is to enable the construction of clean

3 baseload electric generating plants. This section shall not apply to clean baseload
4 electric generating plants that are in commercial operation before August 28, 2023.

5 2. As used in this section, the following terms mean:

6 (1) "Clean baseload generating plant", a new nuclear-fueled electric generating
7 facility located in this state that is designed to be operated at three hundred megawatts
8 or less and is intended in whole or in part to serve retail customers of an electrical
9 corporation in Missouri;

10 (2) "Construction work in progress", the electrical corporation's share of all
11 capital costs associated with a clean baseload generating plant, which have been
12 incurred but have not been included in the electrical corporation's plant in service, and
13 are recorded in the Federal Energy Regulatory Commission's Uniform System of
14 Accounts Prescribed for Public Utilities and Licensees Subject to the Provisions of the
15 Federal Power Act, Balance Sheet Chart Accounts, as construction work in progress for
16 electric plants in 18 CFR Part 101, or any other account established in the Uniform
17 System of Accounts for the recording of construction work in progress.

18 3. The provisions of section 393.135 shall not apply to a clean baseload
19 generating plant if the plant is rated at three hundred megawatts or less. Before any
20 such construction work begins, an electrical corporation seeking to include construction
21 work in progress in rates shall file with the commission a plan detailing the projected
22 costs of the project and the plan to recover those costs through rates. Costs recovered
23 by an electrical corporation under the provisions of this section are subject to inclusion
24 or exclusion from rates in a ratemaking proceeding pursuant to the commission's
25 authority to determine just and reasonable rates. If the commission determines a
26 project was not completed within a reasonable amount of time, the commission shall
27 reduce rates in an amount equal to all amounts recovered in advance by the electrical
28 corporation from ratepayers under the provisions of this section plus interest at the
29 same rate as the rate of interest for delinquent taxes determined by the director of
30 revenue in accordance with section 32.065, in the next ratemaking proceeding for that
31 electrical corporation.

32 4. The commission may promulgate rules to assist in the implementation of this
33 section. Any rule or portion of a rule, as that term is defined in section 536.010, that is
34 created under the authority delegated in this section shall become effective only if it
35 complies with and is subject to all of the provisions of chapter 536 and, if applicable,
36 section 536.028. This section and chapter 536 are nonseverable, and if any of the powers
37 vested with the general assembly pursuant to chapter 536 to review, to delay the
38 effective date, or to disapprove and annul a rule are subsequently held unconstitutional,

39 **then the grant of rulemaking authority and any rule proposed or adopted after August**
40 **28, 2023, shall be invalid and void.**

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