

SECOND REGULAR SESSION

HOUSE BILL NO. 2808

98TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE FITZWATER (49).

6873H.011

D. ADAM CRUMBLISS, Chief Clerk

AN ACT

To repeal sections 386.370 and 620.010, RSMo, and to enact in lieu thereof three new sections relating to the public service commission, with a delayed effective date for certain sections.

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

Section A. Sections 386.370 and 620.010, RSMo, are repealed and three new sections enacted in lieu thereof, to be known as sections 386.370, 386.712, and 620.010, to read as follows:

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

2. The commission shall allocate to each such group of public utilities the estimated expenses directly attributable to the regulation of such group and an amount equal to such proportion of the estimated expenses not directly attributable to any group [as the gross intrastate operating revenues of such group during the preceding calendar year bears to the total gross intrastate operating revenues of all public utilities subject to the jurisdiction of the commission,

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.

16 as aforesaid, during such calendar year] **in the same proportion as the directly attributable**
17 **expenses to each group.** The commission shall then assess the amount so allocated to each
18 group of public utilities, subject to reduction as herein provided, to the public utilities in such
19 group in proportion to their respective gross intrastate operating revenues during the preceding
20 calendar year, except that the total amount so assessed to all such public utilities shall not exceed
21 one-fourth of one percent of the total gross intrastate operating revenues of all utilities subject
22 to the jurisdiction of the commission.

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

30 4. The state treasurer shall credit such payments to a special fund, which is hereby
31 created, to be known as "The Public Service Commission Fund", which fund, or its successor
32 fund created pursuant to section 33.571, shall be devoted solely to the payment of expenditures
33 actually incurred by the commission and attributable to the regulation of such public utilities
34 subject to the jurisdiction of the commission, as aforesaid. Any amount remaining in such
35 special fund or its successor fund at the end of any fiscal year shall not revert to the general
36 revenue fund, but shall be applicable by appropriation of the general assembly to the payment
37 of such expenditures of the commission in the succeeding fiscal year and shall be applied by the
38 commission to the reduction of the amount to be assessed to such public utilities in such
39 succeeding fiscal year, such reduction to be allocated to each group of public utilities in **the same**
40 **proportion [to the respective gross intrastate operating revenues] as the not directly**
41 **attributable expenses** of the respective groups during the preceding calendar year.

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

49 6. **After the effective date of this section and until tariffs are filed in compliance**
50 **with a utility's next general rate proceeding order of the commission, any gas corporation,**
51 **water corporation, or sewer corporation that is assessed an amount under this section**

52 greater than such utility was assessed for expenses of the commission in fiscal year 2017
53 may file, and the commission shall approve, rate adjustments outside of a general rate
54 proceeding in an amount that would substantially reimburse such utility for such increase
55 of assessment.

386.712. 1. The public counsel shall, prior to the beginning of each fiscal year,
2 make available to the commission an estimate of the expenses to be incurred by the public
3 counsel during such fiscal year reasonably attributable to his or her responsibilities under
4 sections 386.700 and 386.710 and shall also separately estimate the amount of such
5 expenses directly attributable to such responsibilities, including administrative and expert
6 expenses, with respect to each of the following groups of public utilities: electrical
7 corporations, gas corporations, water corporations, heating companies, telephone
8 corporations, telegraph corporations, sewer corporations, and any other public utility as
9 defined under section 386.020, as well as the amount of such expenses not directly
10 attributable to any such group.

11 2. The public counsel shall allocate to each such group of public utilities the
12 estimated expenses, including administrative and expert expenses, directly attributable to
13 his or her responsibilities under sections 386.700 and 386.710 with respect to such group
14 and an amount equal to such proportion of the estimated expenses not directly attributable
15 to any group in the same proportion as the directly attributable expenses to each group.
16 The commission shall then assess, on behalf of the public counsel, the amount so allocated
17 to each group of public utilities, subject to reduction as provided in this section, to the
18 public utilities in such group in proportion to their respective gross intrastate operating
19 revenues during the preceding calendar year; except that, the amount so assessed to all
20 such public utilities shall not exceed one-fourth of one percent of the total gross intrastate
21 operating revenues of all utilities subject to the jurisdiction of the commission. Nothing in
22 this section shall authorize the commission to determine how the public counsel allocates
23 the estimated expenses directly attributable to his or her responsibilities under sections
24 386.700 and 386.710 or how the assessment imposed under this section is spent by the
25 public counsel.

26 3. A telecommunications company shall be exempt from an assessment under this
27 section if the commission has no jurisdiction over its retail services, as provided under
28 section 392.611.

29 4. On behalf of the public counsel, the commission shall render a statement of such
30 assessment to each such public utility on or before July first and the amount so assessed
31 to each such public utility shall be paid by it to the director of revenue in full on or before
32 July fifteenth next following the rendition of such statement; except that, any such public

33 utility may, at its election, pay such assessment in four equal installments not later than the
34 following dates next following the rendition of such statement: July fifteenth, October
35 fifteenth, January fifteenth, and April fifteenth. The director of revenue shall remit such
36 payments to the state treasurer.

37 5. The state treasurer shall credit such payments to a special fund, which is hereby
38 created, to be known as "The Public Counsel Fund", which fund shall be devoted solely
39 to the payment of expenditures actually incurred by the public counsel and attributable
40 to his or her responsibilities under sections 386.700 and 386.710, including administrative
41 and expert expenses. Any amount remaining in such fund at the end of any fiscal year
42 shall not revert to the credit of the general revenue fund but shall be applicable to the
43 payment of such expenditures of public counsel in the succeeding fiscal year and shall be
44 applied by the public counsel to the reduction of the amount to be assessed to such public
45 utilities in such succeeding fiscal year, such reduction to be allocated to each group of
46 public utilities in the same proportion as the not directly attributable expenses of the
47 respective groups during the preceding calendar year.

48 6. In order to enable the public counsel to make the allocations and assessments
49 provided for in this section, each public utility subject to the jurisdiction of the commission
50 shall file with the commission on or before March thirty-first of each year a statement
51 under oath showing its gross intrastate operating revenues for the preceding calendar year,
52 and if any public utility shall fail to file such statement within the time established under
53 this subsection, the commission shall estimate such revenue. Such estimate shall be binding
54 on such public utility for the purposes of this section.

55 7. (1) The commission, on behalf of the public counsel, may adopt rules
56 establishing charges for copies of papers and records, official documents, and orders filed;
57 certified copies of evidence and proceedings taken before the commission; and the
58 transmission of electronic transmittal of papers, records, evidence and transcripts,
59 diskettes, and other documents or papers for which requests for copies are received. Fees
60 charged for copies of papers and records shall comply with the provisions of section
61 610.026.

62 (2) No fees shall be charged or collected for copies of papers, records, or official
63 documents furnished to public officers for use in their official capacity.

64 (3) All fees collected under subdivision (1) of this subsection shall be deposited to
65 the credit of the public counsel fund from which the expenses of furnishing the copies listed
66 under subdivision (1) of this subsection are paid and shall be used by the public counsel
67 to offset such expenses.

68 **8. After the effective date of this section and until tariffs are filed in compliance**
69 **with a utility's next general rate proceeding order of the commission, any gas corporation,**
70 **water corporation, or sewer corporation that is assessed an amount under this section**
71 **greater than such utility was assessed for expenses of the office of public counsel in fiscal**
72 **year 2017 may file, and the commission shall approve, rate adjustments outside of a general**
73 **rate proceeding in an amount that would substantially reimburse such utility for such**
74 **increase of assessment.**

 620.010. 1. There is hereby created a "Department of Economic Development" to be
2 headed by a director appointed by the governor, by and with the advice and consent of the senate.
3 All of the general provisions, definitions and powers enumerated in section 1 of the Omnibus
4 State Reorganization Act of 1974 shall continue to apply to this department and its divisions,
5 agencies and personnel.

6 2. The powers, duties and functions vested in the public service commission, chapters
7 386, 387, 388, 389, 390, 392, 393, and others, and the administrative hearing commission,
8 sections 621.015 to 621.198 and others, are transferred by type III transfers to the department of
9 economic development. The director of the department is directed to provide and coordinate
10 staff and equipment services to these agencies in the interest of facilitating the work of the bodies
11 and achieving optimum efficiency in staff services common to all the bodies. Nothing in the
12 Reorganization Act of 1974 shall prevent the chairman of the public service commission from
13 presenting additional budget requests or from explaining or clarifying its budget requests to the
14 governor or general assembly.

15 3. The powers, duties and functions vested in the office of the public counsel are
16 transferred by type III transfer to the department of economic development. [Funding for the
17 general counsel's office shall be by general revenue.]

18 4. The public service commission is authorized to employ such staff as it deems
19 necessary for the functions performed by the general counsel other than those powers, duties and
20 functions relating to representation of the public before the public service commission.

21 5. All the powers, duties and functions vested in the tourism commission, chapter 258
22 and others, are transferred to the "Division of Tourism", which is hereby created, by type III
23 transfer.

24 6. All the powers, duties and functions of the department of community affairs, chapter
25 251 and others, not otherwise assigned, are transferred by type I transfer to the department of
26 economic development, and the department of community affairs is abolished. The director of
27 the department of economic development may assume all the duties of the director of community
28 affairs or may establish within the department such subunits and advisory committees as may be

29 required to administer the programs so transferred. The director of the department shall appoint
30 all members of such committees and heads of subunits.

31 7. The state council on the arts, chapter 185 and others, is transferred by type II transfer
32 to the department of economic development, and the members of the council shall be appointed
33 by the director of the department.

34 8. The Missouri housing development commission, chapter 215, is assigned to the
35 department of economic development, but shall remain a governmental instrumentality of the
36 state of Missouri and shall constitute a body corporate and politic.

37 9. All the authority, powers, duties, functions, records, personnel, property, matters
38 pending and other pertinent vestiges of the division of manpower planning of the department of
39 social services are transferred by a type I transfer to the "Division of Workforce Development",
40 which is hereby created, within the department of economic development. The division of
41 manpower planning within the department of social services is abolished. The provisions of
42 section 1 of the Omnibus State Reorganization Act of 1974, Appendix B, relating to the manner
43 and procedures for transfers of state agencies shall apply to the transfers provided in this section.

44 10. All the authority, powers, functions, records, personnel, property, contracts, matters
45 pending and other pertinent vestiges of the division of employment security within the
46 department of labor and industrial relations related to job training and labor exchange that are
47 funded with or based upon Wagner-Peyser funds, and other federal and state workforce
48 development programs administered by the division of employment security are transferred by
49 a type I transfer to the division of workforce development within the department of economic
50 development.

51 11. Any rule or portion of a rule, as that term is defined in section 536.010, that is
52 created under the authority delegated in this section shall become effective only if it complies
53 with and is subject to all of the provisions of chapter 536 and, if applicable, section 536.028.
54 This section and chapter 536 are nonseverable and if any of the powers vested with the general
55 assembly pursuant to chapter 536 to review, to delay the effective date, or to disapprove and
56 annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and
57 any rule proposed or adopted after August 28, 2008, shall be invalid and void.

Section B. The repeal and reenactment of section 386.370 and the enactment of section
2 386.712 of this act shall become effective on January 1, 2017.

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