

SECOND REGULAR SESSION

SENATE BILL NO. 1130

98TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR RIDDLE.

Read 1st time March 1, 2016, and ordered printed.

ADRIANE D. CROUSE, Secretary.

6689S.011

AN ACT

To repeal sections 386.370 and 620.010, RSMo, and to enact in lieu thereof three new sections relating to funding for the public service commission and the office of public counsel, with an 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Section A. Sections 386.370 and 620.010, RSMo, are repealed and three
2 new sections enacted in lieu thereof, to be known as sections 386.370, 386.715,
3 and 620.010, to read as follows:

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

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

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

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

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

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

50 5. In order to enable the commission to make the allocations and
51 assessments herein provided for, each public utility subject to the jurisdiction of
52 the commission as aforesaid shall file with the commission, within ten days after
53 August 28, 1996, and thereafter on or before March thirty-first of each year, a

54 statement under oath showing its gross intrastate operating revenues for the
55 preceding calendar year, and if any public utility shall fail to file such statement
56 within the time aforesaid the commission shall estimate such revenue which
57 estimate shall be binding on such public utility for the purpose of this section.

58 **6. After the effective date of this section and until tariffs are**
59 **filed in compliance with a utility's next general rate proceeding order**
60 **of the commission, any gas corporation, water corporation, or sewer**
61 **corporation, which is assessed an amount under this section greater**
62 **than such utility was assessed for expenses of the commission in fiscal**
63 **year 2017, may file and the commission shall approve rate adjustments,**
64 **outside of a general rate proceeding in an amount which would**
65 **substantially reimburse such utility for such increase of assessment.**

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

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

26 under sections 386.700 and 386.710 or how the assessment imposed
27 under this section is spent by the public counsel.

28 3. A utility shall be exempt from an assessment under this
29 section if the commission has no jurisdiction over its retail services, as
30 provided by section 392.611.

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

41 5. The state treasurer shall credit such payments to a special
42 fund, which is hereby created, to be known as "The Public Counsel
43 Fund", which fund shall be devoted solely to the payment of
44 expenditures actually incurred by the public counsel and attributable
45 to his or her responsibilities under section 386.700 and 386.710. Any
46 amount remaining in such fund at the end of any fiscal year shall not
47 revert to the general revenue fund, but shall be applicable to the
48 payment of such expenditures of the public counsel in the succeeding
49 fiscal year and shall be applied by the public counsel to the reduction
50 of the amount to be assessed to such public utilities in such succeeding
51 fiscal year, such reduction to be allocated to each group of public
52 utilities in proportion to the respective gross intrastate operating
53 revenues of the respective groups during the preceding calendar year.

54 6. In order to enable the public counsel to make the allocations
55 and assessments provided for in this section, each public utility subject
56 to the jurisdiction of the commission shall file with the commission on
57 or before March thirty-first of each year, a statement under oath
58 showing its gross intrastate operating revenues for the preceding
59 calendar year, and if any public utility shall fail to file such statement
60 within the time established in this subsection, the commission shall
61 estimate such revenue. Such estimate shall be binding on such public
62 utility for the purpose of this section.

63 **7. (1) The commission, on behalf of the public counsel, may**
64 **adopt rules establishing charges for copies of papers and records,**
65 **official documents, and orders filed; certified copies of evidence and**
66 **proceedings taken before the commission; and the transmission by**
67 **electronic transmittal of papers, records, evidence and transcripts,**
68 **diskettes, and other documents or papers for which requests for copies**
69 **are received. Fees charged for copies of papers and records shall**
70 **comply with the provisions of section 610.026.**

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

74 **(3) All fees collected under subdivision (1) of this subsection**
75 **shall be deposited to the credit of the public counsel fund from which**
76 **the expenses of furnishing the copies listed in subdivision (1) of this**
77 **subsection are paid and shall be used by the public counsel to offset**
78 **such expenses.**

79 **8. After the effective date of this section and until tariffs are**
80 **filed in compliance with a utility's next general rate proceeding order**
81 **of the commission, any gas corporation, water corporation, or sewer**
82 **corporation, which is assessed an amount under this section greater**
83 **than such utility was assessed for expenses of the office of public**
84 **counsel in fiscal year 2017, may file and the commission shall approve**
85 **rate adjustments, outside of a general rate proceeding in an amount**
86 **which would substantially reimburse such utility for such increase of**
87 **assessment.**

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

7 2. The powers, duties and functions vested in the public service
8 commission, chapters 386, 387, 388, 389, 390, 392, 393, and others, and the
9 administrative hearing commission, sections 621.015 to 621.198 and others, are
10 transferred by type III transfers to the department of economic development. The
11 director of the department is directed to provide and coordinate staff and
12 equipment services to these agencies in the interest of facilitating the work of the

13 bodies and achieving optimum efficiency in staff services common to all the
14 bodies. Nothing in the Reorganization Act of 1974 shall prevent the chairman of
15 the public service commission from presenting additional budget requests or from
16 explaining or clarifying its budget requests to the governor or general assembly.

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

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

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

28 6. All the powers, duties and functions of the department of community
29 affairs, chapter 251 and others, not otherwise assigned, are transferred by type
30 I transfer to the department of economic development, and the department of
31 community affairs is abolished. The director of the department of economic
32 development may assume all the duties of the director of community affairs or
33 may establish within the department such subunits and advisory committees as
34 may be required to administer the programs so transferred. The director of the
35 department shall appoint all members of such committees and heads of subunits.

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

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

43 9. All the authority, powers, duties, functions, records, personnel,
44 property, matters pending and other pertinent vestiges of the division of
45 manpower planning of the department of social services are transferred by a type
46 I transfer to the "Division of Workforce Development", which is hereby created,
47 within the department of economic development. The division of manpower
48 planning within the department of social services is abolished. The provisions of

49 section 1 of the Omnibus State Reorganization Act of 1974, Appendix B, relating
50 to the manner and procedures for transfers of state agencies shall apply to the
51 transfers provided in this section.

52 10. All the authority, powers, functions, records, personnel, property,
53 contracts, matters pending and other pertinent vestiges of the division of
54 employment security within the department of labor and industrial relations
55 related to job training and labor exchange that are funded with or based upon
56 Wagner-Peyser funds, and other federal and state workforce development
57 programs administered by the division of employment security are transferred by
58 a type I transfer to the division of workforce development within the department
59 of economic development.

60 11. Any rule or portion of a rule, as that term is defined in section
61 536.010, that is created under the authority delegated in this section shall
62 become effective only if it complies with and is subject to all of the provisions of
63 chapter 536 and, if applicable, section 536.028. This section and chapter 536 are
64 nonseverable and if any of the powers vested with the general assembly pursuant
65 to chapter 536 to review, to delay the effective date, or to disapprove and annul
66 a rule are subsequently held unconstitutional, then the grant of rulemaking
67 authority and any rule proposed or adopted after August 28, 2008, shall be
68 invalid and void.

Section B. The repeal and reenactment of section 386.370 and the
2 enactment of section 386.715 of this act shall become effective on January 1,
3 2017.

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