

SECOND REGULAR SESSION

# HOUSE BILL NO. 1282

## 93RD GENERAL ASSEMBLY

---

INTRODUCED BY REPRESENTATIVES BURNETT (Sponsor), JOHNSON (90), LeVOTA, WAGNER, YOUNG, LOWE (44), SKAGGS, PAGE, HARRIS (23), SCHOEMEHL, WALSH, ZWEIFEL, CORCORAN, CASEY, OXFORD, ROORDA, MEADOWS, WALTON, HARRIS (110), BOGETTO, ROBINSON, STORCH, BAKER (25), FRASER, VILLA, DONNELLY, AULL, JOHNSON (61), HUGHES, MEINERS, LOW (39), KUESSNER, WITTE, VOGT, YAEGER AND HENKE (Co-sponsors).

Read 1st time January 10, 2006 and copies ordered printed.

STEPHEN S. DAVIS, Chief Clerk

4131L.011

---

### AN ACT

To repeal sections 386.700 and 386.710, RSMo, and to enact in lieu thereof two new sections relating to the public counsel of the public service commission.

---

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

Section A. Sections 386.700 and 386.710, RSMo, are repealed and two new sections  
2 enacted in lieu thereof, to be known as sections 386.700 and 386.710, to read as follows:

386.700. The [director of the department of economic development] **attorney general**  
2 shall appoint a public counsel to serve at the pleasure of the [director of the department]  
3 **attorney general**. The public counsel shall be an attorney at law licensed to practice law in this  
4 state and whose salary shall be fixed by the [department director] **attorney general** within the  
5 appropriation made therefor.

386.710. 1. The public counsel shall have the following powers and duties:

2 (1) He shall employ a staff or hire on a contract basis such employees and experts as are  
3 necessary to carry out the purposes and responsibilities of his office, and shall set their  
4 compensation within the appropriation made for that purpose;

5 (2) He may represent and protect the interests of the public in any proceeding before or  
6 appeal from the public service commission. **The public counsel may determine that any rate**  
7 **increase for which an appeal is pending shall not take effect until the appeal is resolved;**

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.

8           (3) He shall have discretion to represent or refrain from representing the public in any  
9 proceeding. He shall consider in exercising his discretion the importance and the extent of the  
10 public interest involved and whether that interest would be adequately represented without the  
11 action of his office. If the public counsel determines that there are conflicting public interests  
12 involved in a particular matter, he may choose to represent one such interest based upon the  
13 considerations of this section, to represent no interest in that matter, or to represent one interest  
14 and certify to the [director of the department of economic development] **attorney general** that  
15 there is a significant public interest which he cannot represent without creating a conflict of  
16 interest and which will not be protected by any party to the proceeding. The [director of the  
17 department] **attorney general** shall select an attorney, to be paid from funds appropriated for this  
18 purpose, to represent that segment of the public certified to him by the public counsel as  
19 unrepresented. Nothing in this section shall be construed to limit the right of any person, firm  
20 or corporation specified in subsection 1 of section 386.390 to petition or make complaint to the  
21 commission or otherwise intervene in proceedings or other matters before the commission.

22           2. The public counsel shall be served with all proposed tariffs, initial pleadings, and  
23 applications, in all proceedings before the public service commission, and shall be served with  
24 a copy of all orders of the commission.

25           3. Nothing in sections 386.071, 386.150, [386.155,] 386.170, 386.200, 386.330, 386.360,  
26 386.390, 386.400, 386.410, 386.420, 386.440, 386.450, 386.480, 386.500, 386.530, 386.540,  
27 386.600, 386.700 and 386.710, shall be construed or interpreted to mean that the public counsel  
28 shall not have the right to appeal any and all orders of the public service commission to the  
29 courts which right of appeal exists and has existed since the time of transfer as provided in  
30 section 386.500.

31           4. He shall have all powers necessary or proper to carry out the duties specified in this  
32 section.

✓