

SECOND REGULAR SESSION
SENATE COMMITTEE SUBSTITUTE FOR
HOUSE BILL NO. 1728
93RD GENERAL ASSEMBLY

Reported from the Committee on Commerce, Energy and the Environment, May 2, 2006, with recommendation that the Senate Committee Substitute do pass.

4834S.04C

TERRY L. SPIELER, Secretary.

AN ACT

To repeal section 386.700, RSMo, and to enact in lieu thereof three new sections relating to the public counsel.

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

Section A. Section 386.700, RSMo, is repealed and three new sections
2 enacted in lieu thereof, to be known as sections 386.202, 386.700, and 386.715,
3 to read as follows:

386.202. No commissioner or employee of the public service
2 commission who is responsible for regulating or making
3 recommendations on the regulation of gas, electric, water, or telephone
4 utilities shall be employed by any public utility, as defined in section
5 386.020, engaged in such areas of regulation for a period of no less than
6 two years after the individual has completed his or her employment
7 with the commission.

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

6 2. The director may remove the public counsel for inefficiency,
7 neglect of duty, or misconduct in office, giving to the public counsel a
8 copy of the charges against him or her and an opportunity of being
9 publicly heard in person or by counsel, in his or her own defense, upon
10 not less than a ten-day notice. If the public counsel shall be removed,
11 the governor shall file in the office of the secretary of state a complete

12 statement of all charges made against the public counsel, and his or her
13 findings thereon, together with a complete record of the proceedings.

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 the regulation of public utilities as provided
5 in this chapter and chapters 392 and 393, RSMo, and shall also
6 separately estimate the amount of such expenses directly attributable
7 to such regulation of each of the following groups of public utilities:
8 electrical corporations, gas corporations, water corporations, heating
9 companies, telephone corporations, telegraph corporations, sewer
10 corporations, and any other public utility as defined in section 386.020,
11 as well as the amount of such expenses not directly attributable to any
12 such group.

13 2. For fiscal years 2008, 2009, and 2010, the public counsel shall
14 allocate to each such group of public utilities a share of the estimated
15 expenses for each year using the same allocation as the public service
16 commission. For each fiscal year after fiscal year 2010, the public
17 counsel shall allocate to each such group of public utilities the
18 estimated expenses directly attributable to the regulation of such group
19 and an amount equal to such proportion of the estimated expenses not
20 directly attributable to any group as the gross intrastate operating
21 revenues of such group during the three preceding calendar year bears
22 to the total gross intrastate operating revenues of all public utilities
23 subject to the jurisdiction of the commission, during such calendar
24 years. The commission shall then assess, on behalf of the public
25 counsel, the amount so allocated to each group of public utilities,
26 subject to reduction as provided in this section, to the public utilities
27 in such group in proportion to their respective gross intrastate
28 operating revenues during the preceding calendar year. The total
29 amount so assessed to all such public utilities shall not exceed two
30 hundredths of one percent of the total gross intrastate operating
31 revenues of all utilities subject to the jurisdiction of the
32 commission. Notwithstanding subsection 2 of section 386.370 to the
33 contrary, the total assessment for both the public counsel and the
34 commission shall not exceed one-fourth of one percent of the total gross
35 intrastate operating revenues of all utilities subject to the jurisdiction

36 of the commission. Nothing in this section shall authorize the public
37 service commission to determine how the office of public counsel
38 allocates the estimated expenses directly attributable to the regulation
39 of public utilities described in subsection 1 of this section or how the
40 assessment imposed under this section is spent by the office of public
41 counsel.

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

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

67 5. In order to enable the public counsel to make the allocations
68 and assessments provided for in this section, each public utility subject
69 to the jurisdiction of the commission shall file with the commission on
70 or before March thirty-first of each year, a statement under oath
71 showing its gross intrastate operating revenues for the preceding
72 calendar year, and if any public utility shall fail to file such statement

73 within the time established in this subsection, the commission shall
74 estimate such revenue and such estimate shall be binding on such
75 public utility for the purpose of this section.

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