

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 4608H.011
 Bill No.: HB 2167
 Subject: Utilities; Public Service Commission
 Type: Original
 Date: February 20, 2024

Bill Summary: This proposal modifies provisions relating to the Public Service Commission and creates a new procedure for determining utility rates.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2025	FY 2026	FY 2027
General Revenue	(Could exceed \$1,105,925)	(Could exceed \$1,237,839)	(Could exceed \$1,259,892)
Total Estimated Net Effect on General Revenue	(Could exceed \$1,105,925)	(Could exceed \$1,237,839)	(Could exceed \$1,259,892)

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2025	FY 2026	FY 2027
Other State Funds*	\$0 to (Unknown)	\$0 to (Unknown)	\$0 to (Unknown)
Public Service Commission Fund	(Unknown, Could greatly exceed \$250,000)	(Unknown, Could greatly exceed \$250,000)	(Unknown, Could greatly exceed \$250,000)
Total Estimated Net Effect on <u>Other</u> State Funds	(Unknown, Could greatly exceed \$250,000)	(Unknown, Could greatly exceed \$250,000)	(Unknown, Could greatly exceed \$250,000)

Numbers within parentheses: () indicate costs or losses.

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2025	FY 2026	FY 2027
Total Estimated Net Effect on <u>All</u> Federal Funds	\$0	\$0	\$0

ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)			
FUND AFFECTED	FY 2025	FY 2026	FY 2027
General Revenue Fund	9 FTE	9 FTE	9 FTE
Total Estimated Net Effect on FTE	9 FTE	9 FTE	9 FTE

- Estimated Net Effect (expenditures or reduced revenues) expected to exceed \$250,000 in any of the three fiscal years after implementation of the act or at full implementation of the act.
- Estimated Net Effect (savings or increased revenues) expected to exceed \$250,000 in any of the three fiscal years after implementation of the act or at full implementation of the act.

ESTIMATED NET EFFECT ON LOCAL FUNDS			
FUND AFFECTED	FY 2025	FY 2026	FY 2027
Local Government	\$0 to (Unknown)	\$0 to (Unknown)	\$0 to (Unknown)

FISCAL ANALYSIS

ASSUMPTION

Sections 386.050 - 393.1835 - Public Service Commission Provisions

Officials from the **Department of Commerce and Insurance – Office of Public Council (OPC)** assume the changes proposed by this legislation will require the OPC to perform the same amount of work in half the time, require the OPC to litigate more cases, and increase the burden on the OPC to obtain information from the utility and present that information to the Public Service Commission (PSC). The OPC would require an additional 3 auditor FTE, 2 legal counsel FTE, an engineer FTE and a financial analyst FTE.

This legislation requires the Department of Commerce and Insurance (DCI) director independently authorize and certify any appeal by the Office of the Public Counsel (OPC). Since reviewing each appeal for the reasonable likelihood of success would require a detailed understanding of PSC law and the facts of each case, as well as in-depth case law research and analysis of similar cases, the department would need two additional legal counsel FTEs to complete this work. The OPC is funded through General Revenue per statute and the legal counsel FTE needed to accomplish the requirements under this legislation would also be funded through General Revenue vs. department dedicated funds.

Oversight does not have any information to the contrary. Therefore, Oversight will the fiscal impact (9 FTE) as estimated by the OPC to the General Revenue Fund.

Officials from the **Department of Commerce and Insurance – Public Service Commission (PSC)** state that due to the complexity of the numerous provisions, a fiscal impact is anticipated for the Public Service Commission. However, the number of cases and workload changes cannot be determined with the current language. Therefore, the fiscal impact is unknown. As written, this bill would greatly change rate case proceedings at the PSC.

Oversight assumes this legislation would require workload changes within the PSC. Oversight will reflect a cost estimate as Unknown, Could greatly exceed \$250,000 to the Public Service Commission Fund.

Officials from the **Office of Administration - Facilities Management, Design and Construction (FMDC)** assumes that there would be a fiscal impact to the State's utility costs. However, without more information FMDC is unable to calculate the impact this would have on its utility costs; \$0 to Unknown impact.

Oversight assumes this proposal could increase utility cost for the Office of Administration as well as other state agencies and local governments. Since it is unknown how much of a rate increase will be authorized (if any), Oversight will reflect a range from \$0 (no utility will increase rates) to an unknown cost to the state and local political subdivisions for higher utility costs; however, Oversight assumes the potential increase in utility cost will be under \$250,000.

Officials from the **Department of Corrections**, the **Department of Public Safety - Missouri Highway Patrol**, the **Office of the Governor**, the **Missouri Department of Conservation**, the **Missouri Department of Transportation**, the **Office of the State Public Defender**, the **Missouri Senate**, the **Missouri Office of Prosecution Services, Kansas City**, the **Metropolitan St. Louis Sewer District**, the **South River Drainage District**, the **St. Charles County Pwsd** and the **Wayne County Pwsd** each assume the proposal will have no fiscal impact on their respective organizations. **Oversight** does not have any information to the contrary. Therefore, Oversight will reflect a zero impact in the fiscal note for these agencies.

Rule Promulgation

Officials from the **Joint Committee on Administrative Rules** assume this proposal is not anticipated to cause a fiscal impact beyond its current appropriation.

Officials from the **Office of the Secretary of State (SOS)** note many bills considered by the General Assembly include provisions allowing or requiring agencies to submit rules and regulations to implement the act. The SOS is provided with core funding to handle a certain amount of normal activity resulting from each year's legislative session. The fiscal impact for this fiscal note to the SOS for Administrative Rules is less than \$5,000. The SOS recognizes that this is a small amount and does not expect that additional funding would be required to meet these costs. However, the SOS also recognizes that many such bills may be passed by the General Assembly in a given year and that collectively the costs may be in excess of what the office can sustain with its core budget. Therefore, the SOS reserves the right to request funding for the cost of supporting administrative rules requirements should the need arise based on a review of the finally approved bills signed by the governor.

<u>FISCAL IMPACT – State Government</u>	FY 2025 (10 Mo.)	FY 2026	FY 2027
GENERAL REVENUE FUND			
<u>Cost - OPC</u>			
Personal Service	(\$592,500)	(\$725,220)	(\$739,724)
Fringe Benefits	(\$342,296)	(\$416,266)	(\$421,888)
Equipment and Expense	(\$171,129)	(\$96,353)	(\$98,280)
<u>Total Cost</u>	<u>\$1,105,925</u>	<u>(\$1,237,839)</u>	<u>(\$1,259,892)</u>
FTE Change – OPC	9 FTE	9 FTE	9 FTE

<u>Cost - Office of Administration</u> Potential increase in electric utility costs	\$0 to <u>(Unknown)</u>	\$0 to <u>(Unknown)</u>	\$0 to <u>(Unknown)</u>
ESTIMATED NET EFFECT TO THE GENERAL REVENUE FUND	<u>(Could exceed \$1,105,925)</u>	<u>(Could exceed \$1,237,839)</u>	<u>(Could exceed \$1,259,892)</u>
Estimated Net FTE Change to the General Revenue Fund	9 FTE	9 FTE	9 FTE
PUBLIC SERVICE COMMISSION FUND			
<u>Cost – PSC</u> Workload Increase	<u>(Unknown, Could greatly exceed \$250,000)</u>	<u>(Unknown, Could greatly exceed \$250,000)</u>	<u>(Unknown, Could greatly exceed \$250,000)</u>
ESTIMATED NET EFFECT ON THE PUBLIC SERVICE COMMISSION FUND	<u>(Unknown, Could greatly exceed \$250,000)</u>	<u>(Unknown, Could greatly exceed \$250,000)</u>	<u>(Unknown, Could greatly exceed \$250,000)</u>
VARIOUS STATE FUNDS			
<u>Cost - Various State Agencies</u> Potential increase in electric utility costs	\$0 to <u>(Unknown)</u>	\$0 to <u>(Unknown)</u>	\$0 to <u>(Unknown)</u>
ESTIMATED NET EFFECT TO VARIOUS STATE FUNDS	<u>\$0 to (Unknown)</u>	<u>\$0 to (Unknown)</u>	<u>\$0 to (Unknown)</u>

<u>FISCAL IMPACT – Local Government</u>	FY 2025 (10 Mo.)	FY 2026	FY 2027
LOCAL POLITICAL SUBDIVISIONS			
<u>Cost - Local Governments</u> Potential increase in electric utility costs	\$0 to <u>(Unknown)</u>	\$0 to <u>(Unknown)</u>	\$0 to <u>(Unknown)</u>

ESTIMATED NET EFFECT TO LOCAL POLITICAL SUBDIVISIONS	\$0 to <u>(Unknown)</u>	\$0 to <u>(Unknown)</u>	\$0 to <u>(Unknown)</u>

FISCAL IMPACT – Small Business

Small businesses could have an increase in utility cost as a result of this proposal.

FISCAL DESCRIPTION

This bill modifies duties of the Public Service Commission. In its main provisions, the bill:

- (1) Specifies that there shall be no more than one Commission member from any Congressional district on the Public Service Commission;
- (2) Authorizes any party to a proceeding before the Commission to request the Commission adopt protections of information more restrictive than afforded by the Commission's rules;
- (3) Requires the Commission to employ a balancing test as specified in the bill to determine whether protection from disclosure is warranted if federal law or regulation does not require protection of certain information furnished by the Commission;
- (4) Specifies that the Office of Public Counsel may only be permitted to file certain appeals or intervene in an action if expressly authorized to do so by the director of the department to which the Office of the Public Counsel reports;
- (5) Requires the Governor to appoint a Public Counsel. Currently the Director of the Department of Economic Development appoints a Public Counsel;
- (6) Specifies the duties of the Public Counsel while representing the interests of the public;
- (7) Repeals provisions relating to the Public Counsel's right to appeal orders of the Commission;
- (8) Specifies that the test year of any rate proceeding must be a future year utilizing a 12-month period ending no later than 24 months after the filing of rate schedules stating new base rates and new base rates may not go into effect before the first day of the future test year;
- (9) Specifies that for an electrical corporation, the Commission must use the actual rate base for all rate base components as specified in the bill;
- (10) Specifies that if a public utility is not an electrical corporation, within 60 days of the end of the future test year, the public utility must update its base rates that were approved by the Commission to reflect the total rate base at the end of the future test year;
- (11) Requires the test year selected by the public utility be used for setting base rates in proceedings;
- (12) Authorizes the Public Counsel, the staff of the Commission, and interveners to propose adjustments or other changes to the revenue requirement of the test year selected by the public utility;
- (13) Requires the Commission, in any rate proceeding, to evaluate a public utility on a stand-alone basis and, for purposes of establishing the revenue requirement, use such public utility's test year capital structure, unless the Commission finds that the public utility's capital structure is impudent;

- (14) Creates the "Streamlined Base Rate Procedures Act" under which a public utility may file an application to adjust its base rates;
- (15) Specifies that the Commission may not reject an application for new base rates on the basis that it is filed under the Act;
- (16) Specifies that the public utility's application shall include its direct testimony and responses to the data requests as specified in the bill;
- (17) Sets the test year for proceedings under the Act be a future year utilizing a 12-month period ending no later than 24 months after the filing of a rate application;
- (18) Prohibits new base rates from going into effect before the first day of the future test year;
- (19) Requires, for electrical corporations that the Commission to use actual rate base for all rate base components as specified in the bill;
- (20) Specifies that for public utilities that are not electrical corporations, within 60 days of the end of the future test year, the utility must update its base rates that were approved by the Commission in its final order to reflect the total rate base at the end of the future test year;
- (21) Requires the Commission to evaluate a public utility on a stand-alone basis in any application filed by a public utility for new base rates;
- (22) Requires the Commission to create a form set of no more than 100 data requests. Commission staff, public counsel, and intervening parties may obtain information from the public utility through data requests concerning certain specified items;
- (23) Creates certain proceeding deadlines to be incorporated into a procedural schedule adopted by the Commission;
- (24) Allows the administrative law judge to grant parties a reasonable extension of such deadlines;
- (25) Requires the Commission to convene, within 130 days after filing of an application, at least one but no more than three public hearings to accept public comment within the area the public utility provides service;
- (26) Requires the Commission to convene, if requested by the applicant, no later than 90 days after the filing of the application a mandatory settlement conference to be attended by all parties not later than 135 days after filing of the application;
- (27) Specifies that the Commission must issue a proposed order adjudicating all open issues not later than 205 days after the filing of the application and parties must file any comments on the proposed order with 10 days of issuance;
- (28) Requires the Commission to issue a final order setting the public utility's revenue requirement no later than 230 days after the filing of the application;
- (29) Specifies that in any proceeding filed under the Act, the base rates go into effect no later than 255 days after the date the public utility filed the application on an interim basis if the Commission has not issued an order approving compliance tariff sheets consistent with the Commission's final order;
- (30) Allows an electrical corporation, gas corporation, heating company to elect to base its return on equity on the fully litigated case 12-month average from the most recent report issued in the Regulatory Research Associates Regulatory Focus publication for the applicable utility type, in lieu of using a projected return on equity;

(31) Requires the Commission to consider all admissible evidence on return on equity and select a reasonable return on equity for a public utility that chooses not to or cannot elect the return on equity treatment;

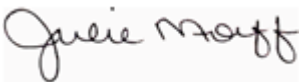
(32) Requires that any statute, rule, judicial interpretation, and appellate decisions that are inconsistent with the policy to favor and promote settlement of cases are abrogated and as to the settlement agreements in base rate cases, the only process that is due to a non-settling party are specified in the bill; and

(33) Specifies that settlement agreements reached between a public utility and the Commission staff are to be presumed reasonable, and the Commission shall approve the settlement agreements and issue a final order setting the utility's revenue requirement based on the terms in the agreement absent specified findings by the Commission.

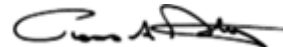
This legislation is not federally mandated, would not duplicate any other program and would not require additional capital improvements or rental space.

SOURCES OF INFORMATION

Department of Commerce and Insurance
Missouri Department of Conservation
Missouri Department of Transportation
Office of Administration
Office of the Secretary of State
Joint Committee on Administrative Rules
Department of Corrections
Department of Public Safety - Missouri Highway Patrol
Office of the Governor
Office of the State Public Defender
Missouri Senate, the Missouri
Office of Prosecution Services
Kansas City
Metropolitan St. Louis Sewer District
South River Drainage District
St. Charles County Pwsd
Wayne County Pwsd



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February 20, 2024



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February 20, 2024