

SECOND REGULAR SESSION
SENATE COMMITTEE SUBSTITUTE FOR
HOUSE BILL NO. 1691
99TH GENERAL ASSEMBLY

Reported from the Committee on Commerce, Consumer Protection, Energy and the Environment, March 8, 2018, with recommendation that the Senate Committee Substitute do pass.

4872S.02C

ADRIANE D. CROUSE, Secretary.

AN ACT

To repeal sections 386.135, 386.510, and 386.515, RSMo, and to enact in lieu thereof three new sections relating to the public service commission.

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

Section A. Sections 386.135, 386.510, and 386.515, RSMo, are repealed
2 and three new sections enacted in lieu thereof, to be known as sections 386.135,
3 386.510, and 386.515, to read as follows:

386.135. 1. The commission shall have an independent technical advisory
2 staff of up to six full-time employees. The advisory staff shall have expertise in
3 accounting, economics, finance, engineering/utility operations, law, or public
4 policy.

5 2. In addition, each commissioner shall also have the authority to retain
6 one personal advisor, who shall be deemed a member of the technical advisory
7 staff. The personal advisors will serve at the pleasure of the individual
8 commissioner whom they serve and shall possess expertise in one or more of the
9 following fields: accounting, economics, finance, engineering/utility operations,
10 law, or public policy.

11 3. The commission shall only hire technical advisory staff pursuant to
12 subsections 1 and 2 of this section if there is a corresponding elimination in
13 comparable staff positions for commission staff to offset the hiring of such
14 technical advisory staff on a cost-neutral basis. Such technical advisory staff
15 shall be hired on or before July 1, 2005.

16 4. It shall be the duty of the technical advisory staff to render advice and
17 assistance to the commissioners and the commission's administrative law judges

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

18 on technical matters within their respective areas of expertise that may arise
19 during the course of proceedings before the commission, **which such advice**
20 **and assistance shall be deemed privileged and protected from**
21 **disclosure.**

22 5. The technical advisory staff shall also update the commission and the
23 commission's administrative law judges periodically on developments and trends
24 in public utility regulation, including updates comparing the use, nature, and
25 effect of various regulatory practices and procedures as employed by the
26 commission and public utility commissions in other jurisdictions.

27 6. Each member of the technical advisory staff shall be subject to any
28 applicable ex parte or conflict of interest requirements in the same manner and
29 to the same degree as any commissioner, provided that neither any person
30 regulated by, appearing before, or employed by the commission shall be permitted
31 to offer such member a different appointment or position during that member's
32 tenure on the technical advisory staff.

33 7. No employee of a company or corporation regulated by the public
34 service commission, no employee of the office of public counsel or the public
35 counsel, and no staff members of either the utility operations division or utility
36 services division who were an employee or staff member on, during the two years
37 immediately preceding, or anytime after August 28, 2003, may be a member of the
38 commission's technical advisory staff for two years following the termination of
39 their employment with the corporation, office of public counsel or commission
40 staff member.

41 8. The technical advisory staff shall never be a party to any case before
42 the commission.

386.510. With respect to commission orders or decisions issued on and
2 after July 1, 2011, within thirty days after the application for a rehearing is
3 denied, or, if the application is granted, then within thirty days after the
4 rendition of the decision on rehearing, the applicant may file a notice of appeal
5 with [the commission, which shall also be served on the parties to the commission
6 proceeding in accordance with section 386.515, and which the commission shall
7 forward to] the appellate court with the territorial jurisdiction over the county
8 where the hearing was held or in which the commission has its principal office
9 for the purpose of having the reasonableness or lawfulness of the original order
10 or decision or the order or decision on rehearing inquired into or
11 determined. **Such notice of appeal shall be served on the commission**

12 **and each party to the commission proceeding in accordance with**
13 **section 386.515.** Except with respect to a stay or suspension pursuant to
14 subsection 1 of section 386.520, no new or additional evidence may be introduced
15 in the appellate court but the cause shall be heard by the court without the
16 intervention of a jury on the evidence and exhibits introduced before the
17 commission and certified to by it. The notice of appeal shall include the
18 appellant's application for rehearing, a copy of the reconciliation required by
19 subsection 4 of section 386.420, a concise statement of the issues being appealed,
20 a full and complete list of the parties to the commission proceeding, and any other
21 information specified by the rules of the court. Unless otherwise ordered by the
22 court of appeals, the commission shall, within thirty days of the filing of the
23 notice of appeal, certify its record in the case to the court of appeals. The
24 commission and each party to the action or proceeding before the commission
25 shall have the right to intervene and participate fully in the review
26 proceedings. Upon the submission of the case to the court of appeals, the court
27 of appeals shall render its opinion either affirming or setting aside, in whole or
28 in part, the order or decision of the commission under review. In case the order
29 or decision is reversed by reason of the commission failing to receive testimony
30 properly proffered, the court shall remand the cause to the commission, with
31 instructions to receive the testimony so proffered and rejected, and enter a new
32 order or render a new decision based upon the evidence theretofore taken, and
33 such as it is directed to receive. The court may, in its discretion, remand any
34 cause which is reversed by it to the commission for further action. No court in
35 this state, except the supreme court or the court of appeals, shall have
36 jurisdiction or authority to review, reverse, correct or annul any order or decision
37 of the commission or to suspend or delay the executing or operation thereof, or to
38 enjoin, restrain or interfere with the commission in the performance of its official
39 duties. The appellate courts of this state shall always be deemed open for the
40 trial of suits brought to review the orders and decisions of the commission as
41 provided in the public service commission law and the same shall where
42 necessary be tried and determined as suits in equity.

386.515. With respect to commission orders or decisions issued on and
2 after July 1, 2011, an application for rehearing is required to be served on all
3 parties and is a prerequisite to the filing of an appeal under section 386.510. The
4 application for rehearing puts the parties to the proceeding before the commission
5 on notice that an appeal can follow and any such review under the appeal may

6 proceed provided that a copy of the notice of appeal is served on said
7 parties. With respect to commission orders or decisions issued on and after July
8 1, 2011, the review procedure provided for in section 386.510 continues to be
9 exclusive except that a copy of the notice of appeal required by section 386.510
10 shall be served on **the commission and** each party to the proceeding before the
11 commission by the appellant according to the rules established by the court in
12 which the appeal is filed.

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