

SECOND REGULAR SESSION

# SENATE BILL NO. 1132

98TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR SIFTON.

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

ADRIANE D. CROUSE, Secretary.

6658S.011

## AN ACT

To repeal sections 386.510 and 386.515, RSMo, and to enact in lieu thereof two new sections relating to appeal procedures for cases originating with the public service commission.

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

Section A. Sections 386.510 and 386.515, RSMo, are repealed and two new  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

386.510. With respect to commission orders or decisions issued on and after  
2 July 1, 2011, within thirty days after the application for a rehearing is denied, or, if  
3 the application is granted, then within thirty days after the rendition of the decision  
4 on rehearing, the applicant may file a notice of appeal with [the commission, which  
5 shall also be served on the parties to the commission proceeding in accordance with  
6 section 386.515, and which the commission shall forward to] the appellate court with  
7 the territorial jurisdiction over the county where the hearing was held or in which the  
8 commission has its principal office for the purpose of having the reasonableness or  
9 lawfulness of the original order or decision or the order or decision on rehearing  
10 inquired into or determined, **which shall also be served on the commission and**  
11 **the parties to the commission proceeding in accordance with section**  
12 **386.515.** Except with respect to a stay or suspension pursuant to subsection 1 of  
13 section 386.520, no new or additional evidence may be introduced in the appellate  
14 court but the cause shall be heard by the court without the intervention of a jury on  
15 the evidence and exhibits introduced before the commission and certified to by it. The  
16 notice of appeal shall include the appellant's application for rehearing, a copy of the  
17 reconciliation required by subsection 4 of section 386.420, a concise statement of the  
18 issues being appealed, a full and complete list of the parties to the commission

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

19 proceeding, and any other information specified by the rules of the court. Unless  
20 otherwise ordered by the court of appeals, the commission shall, within thirty days  
21 of the filing of the notice of appeal, certify its record in the case to the court of  
22 appeals. The commission and each party to the action or proceeding before the  
23 commission shall have the right to intervene and participate fully in the review  
24 proceedings. Upon the submission of the case to the court of appeals, the court of  
25 appeals shall render its opinion either affirming or setting aside, in whole or in part,  
26 the order or decision of the commission under review. In case the order or decision  
27 is reversed by reason of the commission failing to receive testimony properly  
28 proffered, the court shall remand the cause to the commission, with instructions to  
29 receive the testimony so proffered and rejected, and enter a new order or render a  
30 new decision based upon the evidence theretofore taken, and such as it is directed to  
31 receive. The court may, in its discretion, remand any cause which is reversed by it  
32 to the commission for further action. No court in this state, except the supreme court  
33 or the court of appeals, shall have jurisdiction or authority to review, reverse, correct  
34 or annul any order or decision of the commission or to suspend or delay the executing  
35 or operation thereof, or to enjoin, restrain or interfere with the commission in the  
36 performance of its official duties. The appellate courts of this state shall always be  
37 deemed open for the trial of suits brought to review the orders and decisions of the  
38 commission as provided in the public service commission law and the same shall  
39 where necessary be tried and determined as suits in equity.

386.515. With respect to commission orders or decisions issued on and after  
2 July 1, 2011, an application for rehearing is required to be served on all parties and  
3 is a prerequisite to the filing of an appeal under section 386.510. The application for  
4 rehearing puts the parties to the proceeding before the commission on notice that an  
5 appeal can follow and any such review under the appeal may proceed provided that  
6 a copy of the notice of appeal is served on said parties. With respect to commission  
7 orders or decisions issued on and after July 1, 2011, the review procedure provided  
8 for in section 386.510 continues to be exclusive except that a copy of the notice of  
9 appeal required by section 386.510 shall be served on **the commission and** each  
10 party to the proceeding before the commission by the appellant according to the rules  
11 established by the court in which the appeal is filed.

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