

SECOND REGULAR SESSION

HOUSE BILL NO. 2095

91ST GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVES MAYS (50), WILLOUGHBY AND BURTON (Co-sponsors).

Read 1st time March 5, 2002, and 1000 copies ordered printed.

TED WEDEL, Chief Clerk

4990L.011

AN ACT

To repeal sections 386.120, 386.130, and 386.210, 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Section A. Sections 386.120, 386.130, and 386.210, RSMo, are repealed and three new
2 sections enacted in lieu thereof, to be known as sections 386.120, 386.130, and 386.210, to read
3 as follows:

386.120. 1. The principal office of the commission shall be at the state capital at the city
2 of Jefferson City. The commissioners shall reside within [a forty-mile radius of the city of
3 Jefferson City] **the state of Missouri** during their respective terms of office. The office required
4 by this subsection shall be provided and assigned by the board of public buildings.

5 2. The commission shall at all times, except Saturdays, Sundays and legal holidays, be
6 open and in session for the transaction of business and the commissioners shall devote their
7 entire time to the duties of their office.

8 3. The commission shall have an official seal bearing the following inscription: "Public
9 Service Commission of the State of Missouri". The seal shall be affixed to all writs and
10 authentications of copies of records and to such other instruments as the commission shall direct.
11 All courts shall take judicial notice of such seal.

12 4. The commission may sue and be sued in its official name. The offices of said
13 commission shall be supplied with all necessary books, maps, charts, stationery, office furniture,
14 telephone and telegraph connections, and all other necessary appliances and incidentals, to be
15 paid for in the same manner as other expenses authorized by this chapter.

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

16 5. The offices of the commission shall be open during business hours on all days except
17 Saturdays, Sundays and legal holidays, and one or more responsible persons, designated by the
18 commission or by the secretary, under the direction of the commission, shall be on duty at all
19 times, in immediate charge thereof.

20 6. Any summons or other writ issued by any court of this state or of the federal
21 government shall be served upon the secretary of the commission or on any commissioner at the
22 principal office of the commission in Jefferson City. Service of any summons or other writ upon
23 the secretary of the commission, or upon any single commissioner, shall constitute service upon
24 the entire commission.

 386.130. The commission shall promptly and duly organize. A majority of the
2 commissioners shall constitute a quorum for the transaction of any business, for the performance
3 of any duty or for the exercise of any power of the commission, and may hold meetings of the
4 commission at any time or place within the state. Any investigation, inquiry or hearing which
5 the commission has power to undertake or to hold may be undertaken or held by or before any
6 commissioner. All investigations, inquiries, hearings and decisions of a commissioner shall be
7 and be deemed to be the investigations, inquiries, hearings and decisions of the commission, and
8 every order and decision made by a commissioner, when approved and confirmed by the
9 commission and ordered filed in its office, shall be and be deemed to be the order of the
10 commission. **The commission shall have the authority to retain an independent, technical
11 advisory staff, consisting of five full-time employees who shall be selected and compensated
12 through the concurrence of all commissioners. Such staff shall be comprised of at least one
13 licensed attorney, one certified public accountant, one professional engineer and one
14 person with educational training or experience in finance or economics. It shall be the duty
15 of the technical advisory staff to render advice and assistance to the commissioners and the
16 administrative law judges on technical matters within their respective areas of expertise
17 that may arise during the course of proceedings before the commission. The technical
18 advisory staff shall also update the commission and administrative law judges periodically
19 on developments and trends in public utility regulation, including updates comparing the
20 use, nature and effect of various regulatory practices and procedures as employed by the
21 commission and public utility commissions in other jurisdictions. Each member of the
22 technical advisory staff shall be subject to any applicable ex parte or conflict of interest
23 requirements in the same manner and to the same degree as any commissioner, provided
24 that neither any person regulated by, appearing before, or employed by the commission
25 shall be permitted to offer such member a different position, appointment or position
26 during that member's tenure on the technical advisory staff.**

 386.210. 1. The commission may confer in person, or by correspondence, by attending

2 conventions, or in any other way, with the members of **the public**, any public utility or similar
3 commission of **this and** other states and the United States of America, or any official, agency
4 or instrumentality thereof, on any matter relating to the performance of its duties.
5 **Notwithstanding any other provision of law or rule to the contrary, such communications**
6 **may address any matter that, at the time of such communication, is not the subject of a**
7 **pending filing or case before the commission. Such communications may also address**
8 **substantive or procedural matters that are the subject of a pending filing or case in which**
9 **no evidentiary hearing has been scheduled, provided that the communication is made at**
10 **a public agenda meeting of the commission where such matter has been posted in advance**
11 **as an item for discussion or decision, is made at a forum where representatives of the**
12 **public utility affected thereby, the staff of the commission, the office of the public counsel**
13 **and any necessary party are present, or, if made outside such agenda meeting or forum,**
14 **is subsequently disclosed to the public utility, the staff of the commission, the office of the**
15 **public counsel and any necessary party in accordance with the following procedure. If the**
16 **communication is written, the person or party making the communication shall no later**
17 **than the next business day following the communication file a copy of the written**
18 **communication in the official case file of the pending filing or case and serve it upon all**
19 **parties of record. If the communication is oral, the party making the oral communication**
20 **shall no later than the next business day following the communication file a memorandum**
21 **in the official case file of the pending case disclosing the communication and serve such**
22 **memorandum on all parties of record. The memorandum must contain a summary of the**
23 **substance of the communication and not merely a listing of the subjects covered. Nothing**
24 **in this section or any other provision of law shall be construed as imposing any limitation**
25 **on the free exchange of ideas, views and information between any person and the**
26 **commission or any commissioner, provided that such communications relate to matters of**
27 **general regulatory policy and do not address the merits of the specific facts, evidence,**
28 **claims or positions presented or taken in a pending case. The commission and any**
29 **commissioner may also advise any member of the general assembly or other governmental**
30 **official of the issues or factual allegations that are the subject of a pending case, provided**
31 **that the commission or commissioner does not express an opinion as to the merits of such**
32 **issues or allegations, and may discuss in a public agenda meeting with parties to a case in**
33 **which an evidentiary hearing has been scheduled any procedural matter in such case or**
34 **any matter relating to a unanimous stipulation or agreement resolving all of the issues in**
35 **such case.**

36 2. The commission may enter into and establish fair and equitable cooperative
37 agreements or contracts with or act as an agent or licensee for the United States of America, or

38 any official, agency or instrumentality thereof, or any public utility or similar commission of
39 other states, that are proper, expedient, fair and equitable and in the interest of the state of
40 Missouri and the citizens thereof, for the purpose of carrying out its duties under section 386.250
41 as limited and supplemented by section 386.030 and to that end the commission may receive and
42 disburse any contributions, grants or other financial assistance as a result of or pursuant to such
43 agreements or contracts. Any contributions, grants or other financial assistance so received shall
44 be deposited in the public service commission utility fund or the state highway commission fund
45 depending upon the purposes for which they are received.

46 3. The commission may make joint investigations, hold joint hearings within or without
47 the state, and issue joint or concurrent orders in conjunction or concurrence with any railroad,
48 public utility or similar commission, of other states or the United States of America, or any
49 official, agency or any instrumentality thereof, except that in the holding of such investigations
50 or hearings, or in the making of such orders, the commission shall function under agreements or
51 contracts between states or under the concurrent power of states to regulate interstate commerce,
52 or as an agent of the United States of America, or any official, agency or instrumentality thereof,
53 or otherwise.