

FIRST REGULAR SESSION  
HOUSE COMMITTEE SUBSTITUTE FOR  
**HOUSE BILL NO. 481**  
**100TH GENERAL ASSEMBLY**

1305H.03C

DANA RADEMAN MILLER, Chief Clerk

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**AN ACT**

To repeal sections 386.135 and 386.200, RSMo, and to enact in lieu thereof two new sections relating to the public service commission.

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

Section A. Sections 386.135 and 386.200, RSMo, are repealed and two new sections enacted in lieu thereof, to be known as sections 386.135 and 386.200, to read as follows:

386.135. 1. The commission ~~[shall have]~~ **may retain** an independent technical advisory staff of up to ~~[six]~~ **ten** full-time employees. The **technical** advisory staff shall have expertise in accounting, economics, finance, engineering/utility operations, law, or public policy.

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

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

4. It shall be the duty of the ~~[technical]~~ advisory staff to render advice and assistance to the commissioners and the commission's administrative law judges on technical matters within their respective areas of expertise that may arise during the course of proceedings before the commission. **Communications with the technical advisory staff or the personal advisors regarding deliberations by the commission or matters that may arise during the course of**

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

18 **proceedings before the commission shall be deemed privileged and protected from**  
19 **disclosure.**

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

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

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

35 **All technical advisory staff members and the personal advisors who were previously**  
36 **employees of entities regulated by or appearing before the commission shall be precluded**  
37 **from advising the commission on pending cases in which the technical advisory staff**  
38 **member or personal advisor participated while employed by the entity.**

39 ~~[8.]~~ 7. The technical advisory staff **and personal advisors** shall never be a party to any  
40 case before the commission.

386.200. 1. Every commissioner, the public counsel and every person employed or  
2 appointed to office, either by the commission or by the public counsel, is hereby forbidden and  
3 prohibited to solicit, suggest, request or recommend, directly or indirectly, to any public utility,  
4 corporation or person subject to the supervision of the commission, or to any officer, attorney,  
5 agent or employee thereof, the appointment of any person to any office, place, position or  
6 employment. And every such public utility, corporation and person, and every officer, attorney,  
7 agent and employee thereof, is hereby forbidden and prohibited to offer to any commissioner,  
8 the public counsel, or to any person employed by the commission or by the public counsel, any  
9 office, place, appointment or position, or to offer or give to any commissioner, to the public  
10 counsel, or to any person employed or appointed to office by the commission or by the public  
11 counsel, any free pass or transportation or any reduction in fare to which the public generally are  
12 not entitled or free carriage for property or any present, gift, entertainment or gratuity of any  
13 kind.

14           2. If any commissioner, the public counsel, or any person employed or appointed to  
15 office by the commission or the public counsel, shall violate any provision of this section he shall  
16 be removed from the office held by him. Every commissioner, the public counsel, and every  
17 person employed or appointed to office by the commission, or by the public counsel, shall be and  
18 be deemed to be a public officer.

19           **3. No commissioner shall accept or be appointed to any employment with any**  
20 **public utility, corporation, or person subject to the supervision of the commission for two**  
21 **years following the termination of their appointment to the commission.**

22           ~~[3-]~~ 4. If any public utility violates any provision of this section, it shall be liable to the  
23 state of Missouri in a civil action in any court of competent jurisdiction for the assessment of a  
24 civil penalty not to exceed twenty thousand dollars. The penalty provided in this subsection shall  
25 be in addition to any other penalty provided for violation of the provisions of this chapter. The  
26 attorney general shall bring the action authorized in this subsection. The action may be brought  
27 in any county where the defendant public utility's principal place of business is located or where  
28 the violation occurred, or where the public utility's registered agent is located. The penalty  
29 assessed under the provisions of this subsection shall be paid into the state treasury to the credit  
30 of general revenue.

31           ~~[4-]~~ 5. Any officer, agent or employee of any public utility who violates any provision  
32 of this section is guilty of a misdemeanor and, upon conviction, shall be punished by a fine not  
33 exceeding one thousand dollars, or by imprisonment in a county jail not exceeding one year, or  
34 by both such fine and imprisonment.

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