

SECOND REGULAR SESSION

[P E R F E C T E D]

SENATE BILL NO. 780

93RD GENERAL ASSEMBLY

INTRODUCED BY SENATOR KLINDT.

Pre-filed December 27, 2005, and ordered printed.

Read 2nd time January 11, 2006, and referred to the Committee on Commerce, Energy and the Environment.

Reported from the Committee February 23, 2006, with recommendation that the bill do pass.

Taken up for Perfection April 4, 2006. Bill declared Perfected and Ordered Printed, as amended.

TERRY L. SPIELER, Secretary.

4125S.01P

AN ACT

To repeal section 386.700, RSMo, and to enact in lieu thereof three new sections relating to the public counsel.

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

Section A. Section 386.700, RSMo, is repealed and three new sections
2 enacted in lieu thereof, to be known as sections 386.202, 386.700, and 386.715,
3 to read as follows:

**386.202. No commissioner or employee of the public service
2 commission who is responsible for regulating or making
3 recommendations on the regulation of gas, electric, water, or telephone
4 utilities shall be employed by any public utility, as defined in section
5 386.020, engaged in such areas of regulation for a period of no less than
6 two years after the individual has completed his or her employment
7 with the commission.**

386.700. 1. The director of the department of economic development shall
2 appoint a public counsel to serve at the pleasure of the director of the
3 department. The public counsel shall be an attorney at law licensed to practice
4 law in this state and whose salary shall be fixed by the department director
5 within the appropriation made therefor.

6 **2. The director may remove the public counsel only in cases of
7 misconduct in office.**

386.715. 1. The public counsel shall, prior to the beginning of
2 each fiscal year, make available to the commission an estimate of the
3 expenses to be incurred by the public counsel during such fiscal year,

4 reasonably attributable to the regulation of public utilities as provided
5 in this chapter and chapters 392 and 393, RSMo, and shall also
6 separately estimate the amount of such expenses directly attributable
7 to such regulation of each of the following groups of public utilities:
8 electrical corporations, gas corporations, water corporations, heating
9 companies, telephone corporations, telegraph corporations, sewer
10 corporations, and any other public utility as defined in section 386.020,
11 as well as the amount of such expenses not directly attributable to any
12 such group.

13 2. For fiscal years 2008, 2009, and 2010, the public counsel shall
14 allocate to each such group of public utilities a share of the estimated
15 expenses for each year using the same allocation as the public service
16 commission. For each fiscal year after fiscal year 2010, the public
17 counsel shall allocate to each such group of public utilities the
18 estimated expenses directly attributable to the regulation of such group
19 and an amount equal to such proportion of the estimated expenses not
20 directly attributable to any group as the gross intrastate operating
21 revenues of such group during the three preceding calendar year bears
22 to the total gross intrastate operating revenues of all public utilities
23 subject to the jurisdiction of the commission, during such calendar
24 years. The commission shall then assess, on behalf of the public
25 counsel, the amount so allocated to each group of public utilities,
26 subject to reduction as provided in this section, to the public utilities
27 in such group in proportion to their respective gross intrastate
28 operating revenues during the preceding calendar year. The total
29 amount so assessed to all such public utilities shall not exceed two
30 hundredths of one percent of the total gross intrastate operating
31 revenues of all utilities subject to the jurisdiction of the
32 commission. Notwithstanding subsection 2 of section 386.370 to the
33 contrary, the total assessment for both the public counsel and the
34 commission shall not exceed one-fourth of one percent of the total gross
35 intrastate operating revenues of all utilities subject to the jurisdiction
36 of the commission. Nothing in this section shall authorize the public
37 service commission to determine how the office of public counsel
38 allocates the estimated expenses directly attributable to the regulation
39 of public utilities described in subsection 1 of this section or how the
40 assessment imposed under this section is spent by the office of public

41 **counsel.**

42 **3. On behalf of the public counsel, the commission shall render**
43 **a statement of such assessment to each such public utility on or before**
44 **July first and the amount so assessed to each such public utility shall**
45 **be paid by it to the director of revenue in full on or before July**
46 **fifteenth next following the rendition of such statement, except that**
47 **any such public utility may at its election pay such assessment in four**
48 **equal installments not later than the following dates next following the**
49 **rendition of said statement, to wit: July fifteenth, October fifteenth,**
50 **January fifteenth and April fifteenth. The director of revenue shall**
51 **remit such payments to the state treasurer.**

52 **4. The state treasurer shall credit such payments to a special**
53 **fund, which is hereby created, to be known as "The Public Counsel**
54 **Fund", which fund, or its successor fund created under section 33.571,**
55 **RSMo, shall be devoted solely to the payment of expenditures actually**
56 **incurred by the public counsel and attributable to the regulation of**
57 **such public utilities subject to the jurisdiction of the commission. Any**
58 **amount remaining in such special fund or its successor fund at the end**
59 **of any fiscal year shall not revert to the general revenue fund, but shall**
60 **be applicable by appropriation of the general assembly to the payment**
61 **of such expenditures of the public counsel in the succeeding fiscal year**
62 **and shall be applied by the public counsel to the reduction of the**
63 **amount to be assessed to such public utilities in such succeeding fiscal**
64 **year, such reduction to be allocated to each group of public utilities in**
65 **proportion to the respective gross intrastate operating revenues of the**
66 **respective groups during the preceding calendar year.**

67 **5. In order to enable the public counsel to make the allocations**
68 **and assessments provided for in this section, each public utility subject**
69 **to the jurisdiction of the commission shall file with the commission on**
70 **or before March thirty-first of each year, a statement under oath**
71 **showing its gross intrastate operating revenues for the preceding**
72 **calendar year, and if any public utility shall fail to file such statement**
73 **within the time established in this subsection, the commission shall**
74 **estimate such revenue and such estimate shall be binding on such**
75 **public utility for the purpose of this section.**