

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 3835S.01I
 Bill No.: SB 1280
 Subject: Public Service Commission; Utilities; Energy; Boards, Commissions, Committees,
 and Councils
 Type: Original
 Date: March 25, 2024

Bill Summary: This proposal modifies duties of the Public Service Commission.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2025	FY 2026	FY 2027
General Revenue	(Could exceed \$1,105,925)	(Could exceed \$1,237,839)	(Could exceed \$1,259,892)
Total Estimated Net Effect on General Revenue	(Could exceed \$1,105,925)	(Could exceed \$1,237,839)	(Could exceed \$1,259,892)

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2025	FY 2026	FY 2027
Other State Funds*	\$0 to (Unknown)	\$0 to (Unknown)	\$0 to (Unknown)
Public Service Commission Fund	(Unknown, Could greatly exceed \$250,000)	(Unknown, Could greatly exceed \$250,000)	(Unknown, Could greatly exceed \$250,000)
Total Estimated Net Effect on <u>Other</u> State Funds	(Unknown, Could greatly exceed \$250,000)	(Unknown, Could greatly exceed \$250,000)	(Unknown, Could greatly exceed \$250,000)

Numbers within parentheses: () indicate costs or losses.

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2025	FY 2026	FY 2027
Total Estimated Net Effect on <u>All</u> Federal Funds	\$0	\$0	\$0

ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)			
FUND AFFECTED	FY 2025	FY 2026	FY 2027
General Revenue Fund	9 FTE	9 FTE	9 FTE
Total Estimated Net Effect on FTE	9 FTE	9 FTE	9 FTE

Estimated Net Effect (expenditures or reduced revenues) expected to exceed \$250,000 in any of the three fiscal years after implementation of the act or at full implementation of the act.

Estimated Net Effect (savings or increased revenues) expected to exceed \$250,000 in any of the three fiscal years after implementation of the act or at full implementation of the act.

ESTIMATED NET EFFECT ON LOCAL FUNDS			
FUND AFFECTED	FY 2025	FY 2026	FY 2027
Local Government	\$0 to (Unknown)	\$0 to (Unknown)	\$0 to (Unknown)

FISCAL ANALYSIS

ASSUMPTION

Sections 386.050 - 393.1835 - Public Service Commission Provisions

Officials from the **Department of Commerce and Insurance – Office of Public Council (OPC)** assume the changes proposed by this legislation will require the OPC to perform the same amount of work in half the time, require the OPC to litigate more cases, and increase the burden on the OPC to obtain information from the utility and present that information to the Public Service Commission (PSC). The OPC would require an additional three (3) auditor FTE, two (2) legal counsel FTE, one (1) engineer FTE and one (1) financial analyst FTE.

This legislation requires the Department of Commerce and Insurance (DCI) director independently authorize and certify any appeal by the Office of the Public Counsel (OPC). Since reviewing each appeal for the reasonable likelihood of success would require a detailed understanding of PSC law and the facts of each case, as well as in-depth case law research and analysis of similar cases, the department would need two (2) additional legal counsel FTEs to complete this work. The OPC is funded through General Revenue per statute and the legal counsel FTE needed to accomplish the requirements under this legislation would also be funded through General Revenue vs. department dedicated funds.

Oversight does not have any information to the contrary. Therefore, Oversight will the fiscal impact (9 FTE) as estimated by the OPC to the General Revenue Fund.

Officials from the **Department of Commerce and Insurance – Public Service Commission (PSC)** state that due to the complexity of the numerous provisions, a fiscal impact is anticipated for the Public Service Commission. However, the number of cases and workload changes cannot be determined with the current language. Therefore, the fiscal impact is unknown. As written, this bill would greatly change rate case proceedings at the PSC.

Oversight assumes this legislation would require workload changes within the PSC. Oversight will reflect a cost estimate as Unknown, Could greatly exceed \$250,000 to the Public Service Commission Fund.

In response to a similar proposal from this year (HB 2167), officials from the **Office of Administration - Facilities Management, Design and Construction (FMDC)** assumed that there would be a fiscal impact to the State's utility costs. However, without more information FMDC is unable to calculate the impact this would have on its utility costs; \$0 to Unknown impact.

Oversight assumes this proposal could increase utility cost for the Office of Administration as well as other state agencies and local governments. Since it is unknown how much of a rate increase will be authorized (if any), Oversight will reflect a range from \$0 (no utility will increase rates) to an unknown cost to the state and local political subdivisions for higher utility costs; however, Oversight assumes the potential increase in utility cost will be under \$250,000.

Officials from the **Office of the Governor** and the **Missouri Senate** each assume the proposal will have no fiscal impact on their respective organizations.

In response to a similar proposal from this year (HB 2167), officials from the **Missouri Department of Conservation**, the **Missouri Department of Transportation**, **Kansas City**, the **Metropolitan St. Louis Sewer District**, the **South River Drainage District**, the **St. Charles County Pwsd** and the **Wayne County Pwsd** each assumed the proposal will have no fiscal impact on their respective organizations. **Oversight** does not have any information to the contrary. Therefore, Oversight will reflect a zero impact in the fiscal note for these agencies.

Rule Promulgation

Officials from the **Joint Committee on Administrative Rules** assume this proposal is not anticipated to cause a fiscal impact beyond its current appropriation.

Officials from the **Office of the Secretary of State (SOS)** note many bills considered by the General Assembly include provisions allowing or requiring agencies to submit rules and regulations to implement the act. The SOS is provided with core funding to handle a certain amount of normal activity resulting from each year's legislative session. The fiscal impact for this fiscal note to the SOS for Administrative Rules is less than \$5,000. The SOS recognizes that this is a small amount and does not expect that additional funding would be required to meet these costs. However, the SOS also recognizes that many such bills may be passed by the General Assembly in a given year and that collectively the costs may be in excess of what the office can sustain with its core budget. Therefore, the SOS reserves the right to request funding for the cost of supporting administrative rules requirements should the need arise based on a review of the finally approved bills signed by the governor.

<u>FISCAL IMPACT – State Government</u>	FY 2025 (10 Mo.)	FY 2026	FY 2027
GENERAL REVENUE FUND			
<u>Cost - OPC</u>			
Personal Service	(\$592,500)	(\$725,220)	(\$739,724)
Fringe Benefits	(\$342,296)	(\$416,266)	(\$421,888)
Equipment and Expense	(\$171,129)	(\$96,353)	(\$98,280)
Total Cost	\$1,105,925	(\$1,237,839)	(\$1,259,892)
FTE Change – OPC	9 FTE	9 FTE	9 FTE

<u>Cost</u> - Office of Administration Potential increase in electric utility costs	\$0 to <u>(Unknown)</u>	\$0 to <u>(Unknown)</u>	\$0 to <u>(Unknown)</u>
ESTIMATED NET EFFECT TO THE GENERAL REVENUE FUND	<u>(Could exceed \$1,105,925)</u>	<u>(Could exceed \$1,237,839)</u>	<u>(Could exceed \$1,259,892)</u>
Estimated Net FTE Change to the General Revenue Fund	9 FTE	9 FTE	9 FTE
PUBLIC SERVICE COMMISSION FUND			
<u>Cost</u> – PSC Workload Increase	<u>(Unknown, Could greatly exceed \$250,000)</u>	<u>(Unknown, Could greatly exceed \$250,000)</u>	<u>(Unknown, Could greatly exceed \$250,000)</u>
ESTIMATED NET EFFECT ON THE PUBLIC SERVICE COMMISSION FUND	<u>(Unknown, Could greatly exceed \$250,000)</u>	<u>(Unknown, Could greatly exceed \$250,000)</u>	<u>(Unknown, Could greatly exceed \$250,000)</u>
VARIOUS STATE FUNDS			
<u>Cost</u> - Various State Agencies Potential increase in electric utility costs	\$0 to <u>(Unknown)</u>	\$0 to <u>(Unknown)</u>	\$0 to <u>(Unknown)</u>
ESTIMATED NET EFFECT TO VARIOUS STATE FUNDS	<u>\$0 to (Unknown)</u>	<u>\$0 to (Unknown)</u>	<u>\$0 to (Unknown)</u>

<u>FISCAL IMPACT – Local Government</u>	FY 2025 (10 Mo.)	FY 2026	FY 2027
LOCAL POLITICAL SUBDIVISIONS			
<u>Cost</u> - Local Governments	\$0 to	\$0 to	\$0 to

Potential increase in electric utility costs	<u>(Unknown)</u>	<u>(Unknown)</u>	<u>(Unknown)</u>
ESTIMATED NET EFFECT TO LOCAL POLITICAL SUBDIVISIONS	\$0 to <u>(Unknown)</u>	\$0 to <u>(Unknown)</u>	\$0 to <u>(Unknown)</u>

FISCAL IMPACT – Small Business

Small businesses could have an increase in utility cost as a result of this proposal.

FISCAL DESCRIPTION

The act modifies duties of the Public Service Commission.

Under the act, there shall be no more than one Commission member from any congressional district on the Public Service Commission.

Any party to a proceeding before the Commission may request the Commission adopt protections of information more restrictive than afforded by the Commission's rules as described in the act. If federal law or regulation does not require protection of certain information furnished by the Commission, the Commission shall employ a balancing test to determine whether protection from disclosure is warranted. The balancing test is described in the act.

The Office of Public Counsel shall only be permitted to file certain appeals or intervene in action if expressly authorized in writing to do so by the director of the department to which the Office of the Public Counsel reports under the act.

The Governor, instead of the Director of the Department of Economic Development, shall appoint a Public Counsel. The salary of the Public Counsel shall be fixed by the director of the department to which the office of the Public Counsel reports, instead of the Department of Economic Development. Duties of the Public Counsel while representing the interests of the public are described in the act. The act repeals provisions relating to the Public Counsel's right to appeal orders of the Commission.

The test year of any rate proceeding shall be a future year utilizing a 12-month period ending no later than 2 months after the filing of rate schedules stating new base rates. New base rates shall not go into effect before the first day of the future test year. For purposes of establishing the revenue requirement for the future test year, the Commission shall utilize a 13-month average projected rate base and other specifics described in the act.

For an electrical corporation, the Commission shall not utilize a projected rate base but shall the utilize actual rate base for all rate base components as described in the act. An electrical corporation may estimate the rate base as described in the act.

If a public utility is not an electrical corporation, within 60 days of the end of the future test year, such public utility shall update its base rates that were approved by the Commission under the act to reflect the total rate base at the end of the future test year.

The test year selected by the public utility shall be used for setting base rates in proceedings under the act. The Public Counsel, the staff of the Commission, and intervenors may propose adjustments or other changes to the revenue requirement of the test year selected by the public utility but shall not present alternative base rates based on a test year different from that selected by the public utility.

In any proceeding under the act, the Commission shall evaluate such public utility on a stand-alone basis and, for purposes of establishing the revenue requirement, utilize such public utility's test year capital structure, without regard to the capital structure or investments of any other entities with which such public utility may be affiliated, unless the Commission finds that the public utility's capital structure is impudent. The capital structure shall include the relative proportions of common equity, long-term debt, and preferred stock consistent with the public utility's test year. The capital structure shall include the relative proportions of common equity, long-term debt, and preferred stock consistent with the public utility's test year.

The act creates the "Streamlined Base Rate Procedures Act". A public utility may file an application to adjust its base rates under the act. An application shall not be subject to provisions relating to the Commission fixing rates after hearing pursuant to current law and the act shall abrogate any inconsistent procedures set forth in any other statute or regulations. The Commission shall not reject an application for new base rates on the basis that it is filed under the act. The public utility's application shall include its direct testimony and responses to the data requests as described in the act.

The test year for proceedings under the act shall be a future year utilizing a 12-month period ending no later than 24 months after the filing of a rate application. New base rates may not go into effect before the first day of the future test year. For purposes of establishing the revenue requirement for the future test year, the Commission shall utilize a 13-month procedure described in the act.

For electrical corporations, the Commission shall not utilize a projected rate base but shall utilize actual rate base for all rate base components as described in the act.

For public utilities that are not electrical corporations, within 60 days of the end of the future test year, such public utility shall update its base rates that were approved by the Commission in its final order issued in the proceeding under the act to reflect the total rate base at the end of the future test year.

In any application filed by a public utility for new base rates, the Commission shall evaluate such public utility on a stand-alone basis as described in the act. No entity or person other than a public utility shall file an application under the act.

The Commission shall create a form set of no more than 100 data requests as described in the act. Commission staff, public counsel, and intervening parties may obtain information from the public utility through data requests concerning the books, records, data, case proposals and other information as described in the act.

The act creates certain proceeding deadlines to be incorporated into a procedural schedule to be adopted by the Commission reflecting the milestones and time frames under the act. Specifics of such deadlines are described in the act. The administrative law judge may grant parties a reasonable extension of such deadlines as described in the act.

The Commission shall convene at least one but no more than 3 public hearings to accept public comment within the area the public utility provides service. All such public hearings shall be convened within 130 days after filing of the application. Such hearings may be conducted virtually.

If requested by the applicant no later than 90 days after the filing of the application under the act, the Commission shall convene a mandatory settlement conference to be attended by all parties not later than 135 days after filing of the application.

If requested by the applicant no later than 180 days after the filing of the application, the Commission shall issue a proposed order adjudicating all open issues not later than 205 days after the filing of the application. Parties shall file any comments on the proposed order not later than 10 days after issuance of a proposed order.

The Commission shall issue a final order setting the public utility's revenue requirement no later than 230 days after the filing of the application. The public utility shall file proposed tariff sheet in compliance with the Commission's final order as described in the act.

In any proceeding filed under the act, the base rates filed in the application shall go into effect no later than 255 days after the date the public utility filed the application on an interim basis if the Commission has not issued an order approving compliance tariff sheets consistent with the Commission's final order to become effective by that date as described in the act.

An electrical corporation, gas corporation, heating company may elect to base its return on equity on the fully-litigated case 12-month average from the most recent report issued in the Regulatory Research Associates Regulatory Focus publication, or its successor publication, for the applicable utility type, in lieu of using a projected return on equity. For electrical corporations, fully-litigated observations from cases for the electric utility in restructured jurisdiction or special rider or non-base rate cases in other jurisdictions shall be excluded from the average. Specifics regarding such return on equity are described in the act. The Commission shall consider all admissible evidence on return on equity and select a reasonable return on equity for a public utility that chooses not to or cannot elect the return on equity treatment under the act.

Any statute, rule, judicial interpretation, and appellate decisions that are inconsistent with the policy to favor and promote settlement of cases under the act are hereby abrogated. As to the

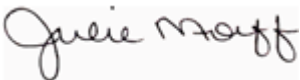
settlement agreements in base rate cases, the act prescribes the only process that is due to a non-settling party.

Settlement agreements reached between the public utility filing a base rate proceeding under the act and the Commission staff shall be presumed to be reasonable. The Commission shall approve settlement agreements reached between the public utility and the Commission staff and issue a final order setting the utility's revenue requirement on the terms specified in the settlement agreement absent a finding by the Commission as described in the act.

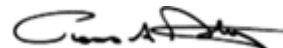
This legislation is not federally mandated, would not duplicate any other program and would not require additional capital improvements or rental space.

SOURCES OF INFORMATION

Department of Commerce and Insurance
Missouri Department of Conservation
Missouri Department of Transportation
Office of Administration
Office of the Secretary of State
Joint Committee on Administrative Rules
Department of Corrections
Department of Public Safety - Missouri Highway Patrol
Office of the Governor
Office of the State Public Defender
Missouri Senate, the Missouri
Office of Prosecution Services
Kansas City
Metropolitan St. Louis Sewer District
South River Drainage District
St. Charles County Pwsd
Wayne County Pwsd



Julie Morff
Director
March 25, 2024



Ross Strobe
Assistant Director
March 25, 2024