

FIRST REGULAR SESSION  
SENATE COMMITTEE SUBSTITUTE FOR  
**HOUSE BILL NO. 208**  
92ND GENERAL ASSEMBLY

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Reported from the Committee on Commerce and the Environment, April 17, 2003, with recommendation that the Senate Committee Substitute do pass.

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TERRY L. SPIELER, Secretary.

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**AN ACT**

To repeal sections 386.210 and 393.110, RSMo, and to enact in lieu thereof three 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Section A. Sections 386.210 and 393.110, RSMo, are repealed and three new  
2 sections enacted in lieu thereof, to be known as sections 386.135, 386.210, and 393.110,  
3 to read as follows:

**386.135. 1. The commission shall have an independent technical  
2 advisory staff of six full time employees. The advisory staff shall have  
3 expertise in accounting, economics, finance, engineering/utility operations,  
4 law, and public policy.**

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

11 **3. The commission shall only hire technical advisory staff pursuant to  
12 subsections 1 and 2 of this section if there is a corresponding elimination in  
13 comparable staff positions for commission staff to offset the hiring of such  
14 technical advisory staff on a cost neutral basis. Such technical advisory staff  
15 shall be hired on or before July 1, 2004.**

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

16           **4. It shall be the duty of the technical advisory staff to render advice**  
17 **and assistance to the commissioners and the commission's hearing officers on**  
18 **technical matters within their respective areas of expertise that may arise**  
19 **during the course of proceedings before the commission.**

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

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

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

39           **8. The technical advisory staff shall never be a party to any case before**  
40 **the commission.**

          386.210. 1. The commission may confer in person, or by correspondence, by  
2 attending conventions, or in any other way, with the members of **the public**, any public  
3 utility or similar commission of **this and** other states and the United States of America,  
4 or any official, agency or instrumentality thereof, on any matter relating to the  
5 performance of its duties.

6           **2. Such communications may address any issue that at the time of such**  
7 **communication is not the subject of a case that has been filed with the**  
8 **commission.**

9           **3. Such communications may also address substantive or procedural**  
10 **matters that are the subject of a pending filing or case in which no**  
11 **evidentiary hearing has been scheduled, provided that the communication:**

12           **(1) Is made at a public agenda meeting of the commission where such**

13 **matter has been posted in advance as an item for discussion or decision;**

14 **(2) Is made at a forum where representatives of the public utility**  
15 **affected thereby, the office of public counsel, and any other party to the case**  
16 **are present; or**

17 **(3) If made outside such agenda meeting or forum, is subsequently**  
18 **disclosed to the public utility, the office of the public counsel, and any other**  
19 **party to the case in accordance with the following procedure:**

20 **(a) If the communication is written, the person or party making the**  
21 **communication shall no later than the next business day following the**  
22 **communication, file a copy of the written communication in the official case**  
23 **file of the pending filing or case and serve it upon all parties of record;**

24 **(b) If the communication is oral, the party making the oral**  
25 **communication shall no later than the next business day following the**  
26 **communication file a memorandum in the official case file of the pending case**  
27 **disclosing the communication and serve such memorandum on all parties of**  
28 **record. The memorandum must contain a summary of the substance of the**  
29 **communication and not merely a listing of the subjects covered.**

30 **4. Nothing in this section or any other provision of law shall be**  
31 **construed as imposing any limitation on the free exchange of ideas, views,**  
32 **and information between any person and the commission or any**  
33 **commissioner, provided that such communications relate to matters of**  
34 **general regulatory policy and do not address the merits of the specific facts,**  
35 **evidence, claims, or positions presented or taken in a pending case unless**  
36 **such communications comply with the provisions of subsection 3 of this**  
37 **section.**

38 **5. The commission and any commissioner may also advise any member**  
39 **of the general assembly or other governmental official of the issues or factual**  
40 **allegations that are the subject of a pending case, provided that the**  
41 **commission or commissioner does not express an opinion as to the merits of**  
42 **such issues or allegations, and may discuss in a public agenda meeting with**  
43 **parties to a case in which an evidentiary hearing has been scheduled, any**  
44 **procedural matter in such case or any matter relating to a unanimous**  
45 **stipulation or agreement resolving all of the issues in such case.**

46 **[2.] 6. The commission may enter into and establish fair and equitable**  
47 **cooperative agreements or contracts with or act as an agent or licensee for the United**  
48 **States of America, or any official, agency or instrumentality thereof, or any public utility**  
49 **or similar commission of other states, that are proper, expedient, fair and equitable and**

50 in the interest of the state of Missouri and the citizens thereof, for the purpose of  
51 carrying out its duties [under] **pursuant to** section 386.250 as limited and  
52 supplemented by section 386.030 and to that end the commission may receive and  
53 disburse any contributions, grants or other financial assistance as a result of or pursuant  
54 to such agreements or contracts. Any contributions, grants or other financial assistance  
55 so received shall be deposited in the public service commission utility fund or the state  
56 highway commission fund depending upon the purposes for which they are received.

57 [3.] 7. The commission may make joint investigations, hold joint hearings within  
58 or without the state, and issue joint or concurrent orders in conjunction or concurrence  
59 with any railroad, public utility or similar commission, of other states or the United  
60 States of America, or any official, agency or any instrumentality thereof, except that in  
61 the holding of such investigations or hearings, or in the making of such orders, the  
62 commission shall function under agreements or contracts between states or under the  
63 concurrent power of states to regulate interstate commerce, or as an agent of the United  
64 States of America, or any official, agency or instrumentality thereof, or otherwise.

393.110. 1. Sections 393.110 to 393.285 shall apply to the manufacture and  
2 furnishing of gas for light, heat or power and the furnishing of natural gas for light, heat  
3 or power, and the generation, furnishing and transmission of electricity for light, heat  
4 or power, the supplying and distributing of water for any purpose whatsoever, and the  
5 furnishing of a sewer system for the collection, carriage, treatment or disposal of sewage  
6 for municipal, domestic or other beneficial or necessary purpose.

7 **2. Notwithstanding any provision in chapter 386, RSMo, or this chapter**  
8 **to the contrary, the public service commission shall not have jurisdiction over**  
9 **the rates, financing, accounting, or management of any electrical corporation**  
10 **which is required by its bylaws to operate on the not-for-profit cooperative**  
11 **business plan, with its consumers who receive service as the stockholders of**  
12 **such corporation, and which holds a certificate of public convenience and**  
13 **necessity to serve a majority of its consumer-owners in counties of the third**  
14 **classification as of August 28, 2003. Nothing in this section shall be construed**  
15 **as amending or superseding the commission's authority granted in subsection**  
16 **1 of section 386.310, RSMo, in section 393.106, and sections 386.800 and**  
17 **394.312, RSMo.**