

FIRST REGULAR SESSION
SENATE COMMITTEE SUBSTITUTE FOR
HOUSE BILL NO. 432
97TH GENERAL ASSEMBLY

Reported from the Committee on Commerce, Consumer Protection, Energy and the Environment, April 25, 2013, with recommendation that the Senate Committee Substitute do pass.

1337S.03C

TERRY L. SPIELER, Secretary.

AN ACT

To repeal section 386.210, RSMo, and to enact in lieu thereof one new section relating to public service commission intervention in certain legal proceedings.

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

Section A. Section 386.210, RSMo, is repealed and one new section
2 enacted in lieu thereof, to be known as section 386.210, to read as follows:

386.210. 1. The commission may confer in person, or by correspondence,
2 by attending conventions, or in any other way, with the members of the public,
3 any public utility or similar commission of this and other states and the United
4 States of America, or any official, agency or instrumentality thereof, on any
5 matter relating to the 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 evidentiary
11 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 affected
15 thereby, the office of public counsel, and any other party to the case are present;

16 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 party
19 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 file
23 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 communication
25 shall no later than the next business day following the communication file a
26 memorandum in the official case file of the pending case disclosing the
27 communication and serve such memorandum on all parties of record. The
28 memorandum must contain a summary of the substance of the communication
29 and not merely a listing of the subjects covered.

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

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

45 6. The commission may enter into and establish fair and equitable
46 cooperative agreements or contracts with or act as an agent or licensee for the
47 United States of America, or any official, agency or instrumentality thereof, or
48 any public utility or similar commission of other states, that are proper,
49 expedient, fair and equitable and in the interest of the state of Missouri and the
50 citizens thereof, for the purpose of carrying out its duties pursuant to section
51 386.250 as limited and supplemented by section 386.030 and to that end the
52 commission may receive and disburse any contributions, grants or other financial
53 assistance as a result of or pursuant to such agreements or contracts. Any
54 contributions, grants or other financial assistance so received shall be deposited
55 in the public service commission utility fund or the state highway commission
56 fund depending upon the purposes for which they are received.

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

66 **8. The commission may appear, participate, and intervene in any**
67 **federal, state, or other administrative, regulatory, or judicial**
68 **proceeding in which the commission has standing. This subsection**
69 **applies to all proceedings now pending or commenced after the**
70 **effective date of this section.**

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