

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 4791-02
Bill No.: HCS for HB 1316
Subject: Utilities; Telecommunications; Energy
Type: Original
Date: March 16, 2012

Bill Summary: This proposal amends the provisions regarding public utilities regulation and creates the Public Counsel Fund.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2013	FY 2014	FY 2015
General Revenue	\$473,422	\$1,000,316	\$1,010,319
Total Estimated Net Effect on General Revenue Fund	\$473,422	\$1,000,316	\$1,010,319

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2013	FY 2014	FY 2015
Public Counsel Fund*	\$0	\$0	\$0
Total Estimated Net Effect on Other State Funds*	\$0	\$0	\$0

*Offsetting Income and Cost

Numbers within parentheses: () indicate costs or losses. This fiscal note contains 8 pages.

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2013	FY 2014	FY 2015
Total Estimated Net Effect on <u>All</u> Federal Funds	\$0	\$0	\$0

ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)			
FUND AFFECTED	FY 2013	FY 2014	FY 2015
General Revenue	(10 FTE)	(10 FTE)	(10 FTE)
Public Counsel Fund	14 FTE	14 FTE	14 FTE
Total Estimated Net Effect on FTE	4 FTE	4 FTE	4 FTE

- Estimated Total Net Effect on All funds expected to exceed \$100,000 savings or (cost).
- Estimated Net Effect on General Revenue Fund expected to exceed \$100,000 (cost).

ESTIMATED NET EFFECT ON LOCAL FUNDS			
FUND AFFECTED	FY 2013	FY 2014	FY 2015
Local Government	\$0	\$0	\$0

FISCAL ANALYSIS

ASSUMPTION

Officials from the **Department of Revenue** and the **Office of State Treasurer** state this proposal will have no fiscal impact on their respective agencies.

Officials from the **Department of Natural Resources (DNR)** state that since the proposal does not assign any direct duty or responsibility to DNR, no direct fiscal impact to their agency would be anticipated.

Officials from the **Office of Administration - Division of Facilities Management, Design and Construction** indicated no fiscal impact.

Officials from the **Department of Economic Development - Public Service Commission (PSC)** assume no direct fiscal impact to the operations of the PSC.

Officials from the **Office of Administration - Division of Budget and Planning (BAP)** state this proposed legislation should not result in additional costs or savings to BAP.

The proposed legislation adjusts the total amount which can be assessed to the utilities from .25% to .27%. It lowers the total amount that can be collected for the PSC from .25 to .23% of total gross intrastate operating revenue. The bill also provides for funding of the Office of Public Counsel (OPC) through a cost allocation process based upon utility classes, and limits the total amount that can be collected for the OPC at .04% of total gross intrastate operating revenue. Assuming an overall assessment of .27% for both the PSC and the OPC, as outlined above, there could be an increase in total state revenues. The proposal creates the Public Counsel Fund for deposit of revenues generated for the OPC.

§386.370, 386.715, 620.010 - Office of Public Counsel

According to officials from the **Public Service Commission - Office Public Counsel (OPC)**, this proposal would change the source of funds used to operate the agency from Public Service Commission funds to a special Office of Public Counsel fund. The revenues for the fund would come from assessments on regulated utilities, which would recover the assessments through rates charged to customers.

Because utilities are permitted to pay assessments in quarterly installments, it is assumed that the agency's operations in the first quarter of the fiscal year after the bill becomes effective will be funded through the Public Service Commission. Any allocation of cost for the Office of Administration Central Service Cost Allocation Plan are not included in this estimate.

ASSUMPTION (continued)

§393.135 - Early Site Permit Cost Recovery

According to officials from the **Office of the Governor**, there should be no added cost to the Governor's Office as a result of this measure. If additional duties are placed on the office related to appointments in other legislation, there may be the need for additional staff resources in future years.

Officials from the **Office of Public Counsel (OPC)** assume this proposal provides that certain expenditures made by regulated public utilities must be included in the utilities' rates unless a party in a rate case at the Public Service Commission can prove that the expenditures were not prudent. The expenditures are the costs of obtaining permits that might eventually be used to support a nuclear power plant. This is a change from existing law, which now provides that the utility, and not the utility's customers, has to bear these costs until the plant is completed and providing electricity to customers.

OPC, whose statutory responsibility under §386.710 is to represent the public interest, must be able to investigate, analyze, and - if necessary - challenge the prudence of these expenditures. OPC does not now have any resources that could be devoted to analysis of the prudence of the costs of obtaining an Early Site Permit (ESP). According to the bill language, these costs are likely to be \$45 million or more, and they will have been incurred over a number of years.

At the present time, OPC does not have resources that could be devoted to analysis of the prudence of the costs of obtaining an ESP. Analyzing and challenging the prudence of these costs will require OPC to retain the services of expert witnesses in the two fiscal years in which the ESP process is concluding and utilities are seeking recovery of expenditures in rates.

Officials from the Public Service Commission state that the Nuclear Regulatory Commissions has taken three to four years to issue Early Site Permits. Oversight assumes the expert witness costs would not be incurred until FY 2014, at the earliest.

Officials from **St Louis County** indicated no fiscal impact associated with this proposal.

<u>FISCAL IMPACT - State Government</u>	FY 2013	FY 2014	FY 2015
GENERAL REVENUE FUND			
<u>Savings - Office of Public Counsel</u>			
Personal Service (14 FTE)	\$485,687	\$654,058	\$660,598
Fringe Benefits	<u>\$257,123</u>	<u>\$346,258</u>	<u>\$349,721</u>
Total Savings - OPC (§386.715)	\$742,810	\$1,000,316	\$1,010,319
<u>Cost - Office of Public Counsel</u>			
Personal Service (4 FTE)	(\$161,896)	\$0	\$0
Fringe Benefits	<u>(\$85,708)</u>	<u>\$0</u>	<u>\$0</u>
Total Cost - OPC (§386.715)	(\$247,604)	<u>\$0</u>	<u>\$0</u>
ESTIMATED NET EFFECT ON GENERAL REVENUE FUND	<u>\$473,422</u>	<u>\$1,000,316</u>	<u>\$1,010,319</u>
ESTIMATED NET EFFECT ON FTE - GENERAL REVENUE	4 FTE - 3 Mo (14 FTE) - 9 Mo	(10 FTE)	(10 FTE)
PUBLIC COUNSEL FUND			
<u>Income - Increased assessments on regulated utilities (§386.370)</u>			
	\$742,810	\$1,080,316	\$1,090,319
<u>Cost - Office of Public Counsel</u>			
Personal Service (14 FTE)	(\$485,687)	(\$654,058)	(\$660,598)
Fringe Benefits	<u>(\$257,123)</u>	<u>(\$346,258)</u>	<u>(\$349,721)</u>
Total Costs - OPC (§386.715)	(\$742,810)	(\$1,000,316)	(\$1,010,319)
<u>Cost - Office of Public Counsel - Expert witness fees (§393.135)</u>	\$0	(\$80,000)	(\$80,000)
ESTIMATED NET EFFECT ON PUBLIC COUNSEL FUND	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>
ESTIMATED NET EFFECT ON FTE - PUBLIC COUNSEL FUND	14 FTE	14 FTE	14 FTE

<u>FISCAL IMPACT - Local Government</u>	FY 2013	FY 2014	FY 2015
	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>

FISCAL IMPACT - Small Business

This proposal could lead to additional utility rate increases for small businesses.

FISCAL DESCRIPTION

This proposal changes the laws regarding the regulation of utilities.

§386.370 - Public Service Commission

Under current law, the Public Service Commission (PSC) receives funding from a fee assessed to each regulated public utility based on the proportionate amount of time and expenses spent by the PSC on each utility. This proposal lowers the total amount that may be collected for the PSC from the fee, from its current maximum of .25% of the total gross intrastate operating revenue to .23% of total gross intrastate operating revenue.

§386.715 - Office of Public Counsel

The proposal requires the Office of Public Counsel (OPC) to, prior to the beginning of each fiscal year, inform the PSC of its estimated expenses for the upcoming fiscal year. The OPC must specify how much of its estimated expenses are directly attributable to its work with each type of PSC-regulated public utility (i.e., electric, gas, water, heating, telephone, and sewer) as well as the amount of expenses that are not directly attributable to one specific type of utility. Costs for telephone companies, water companies, and gas companies may not exceed 3%, 8%, and 15%, respectively, of the total directly attributable costs, with the remainder allocated to electric companies. Costs not directly attributable to one specific type of utility must be proportionately attributed to each utility type based on each utility type's percentage of total gross intrastate operating revenues across all utilities.

The PSC must levy an assessment to each regulated public utility to cover its share of the OPC's costs. The total amount levied to all utilities must not exceed 400ths of 1% of the total gross intrastate operating revenues of all regulated utilities. The PSC must issue a statement of the assessment amount to each utility by July 1st of each year, which the utility may pay in full by July 15th or in 4 equal quarterly installments.

The payments are to be deposited in the Public Counsel Fund, created in the proposal, and may

DESCRIPTION (continued)

only be used to pay the expenses of the OPC. Any balance remaining in the fund at the end of the fiscal year must be proportionately credited to the next year's assessments.

The proposal does not grant authority to the PSC to determine how the OPC estimates its expenses or how the OPC will spend the assessments collected from the utilities.

By March 31st of each year, each regulated utility must file a statement with the PSC of its gross intrastate operating revenues for the preceding calendar year.

§393.135 - Early Site Permit Cost Recovery

If an electric company obtains an Early Site Permit from the U.S. Nuclear Regulatory Commission (NRC), the PSC must allow the company to recover from its ratepayers up to \$45 million of prudently-incurred expenditures spent by the company to obtain the permit. The company may recover such expenditures from its ratepayers through rates and charges over a period not to exceed 6 years. The company may begin the cost recovery on the effective date of tariffs approved by the PSC at the company's first general rate proceeding following the NRC's issuance of the permit. Cost recovery is limited to only costs that are prudently incurred; if a cost is challenged, the company has the burden of proof to show the cost was prudent. In any challenge to the prudence of the company's decision to obtain an Early Site Permit, the burden of proof is on the party raising the challenge.

If an electric company has recovered costs from its ratepayers for an Early Site Permit but the company's interest in the Early Site Permit is subsequently sold or transferred, the company must refund its ratepayers up to the amount that the company collected from the ratepayers for the permit, plus interest. The PSC may award up to 25% of any excess profits above the amount paid by ratepayers to the company.

The proposal also creates the Governor's Task Force on Electrical Generation Options, which shall review energy generation options to include other options in addition to large baseload nuclear plants. The task force must issue its report by September 30, 2012.

§620.010- Office of Public Counsel

The proposal removes the requirement that the Office of Public Counsel is funded by general revenue.

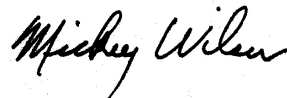
The proposal contains an emergency clause.

DESCRIPTION (continued)

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 Economic Development
 Public Service Commission
 Office of Public Counsel
Office of Administration
 Division of Budget and Planning
 Division of Facilities Management, Design and Construction
Department of Natural Resources
Department of Revenue
Office of State Treasurer
Office of the Governor
St Louis County



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Director
March 16, 2012