

HOUSE _____ **AMENDMENT NO.** _____

Offered By

AMEND House Committee Substitute for House Bill No. 613, Page 1, In the Title, Line 3, by inserting after the word "act" the words ", with an emergency clause for certain sections"; and

Further amend said bill, Page 1, Section A, Line 4, by inserting after all of said line the following:

"386.370. 1. The commission shall, prior to the beginning of each fiscal year beginning with the fiscal year commencing on July 1, 1947, make an estimate of the expenses to be incurred by it during such fiscal year reasonably attributable to the regulation of public utilities as provided in chapters 386, 392 and 393 and shall also separately estimate the amount of such expenses directly attributable to such regulation of each of the following groups of public utilities: Electrical corporations, gas corporations, water corporations, heating companies and telephone corporations, telegraph corporations, sewer corporations, and any other public utility as defined in section 386.020, as well as the amount of such expenses not directly attributable to any such group.

2. The commission shall allocate to each such group of public utilities the estimated expenses directly attributable to the regulation of such group and an amount equal to such proportion of the estimated expenses not directly attributable to any group as the gross intrastate operating revenues of such group during the preceding calendar year bears to the total gross intrastate operating revenues of all public utilities subject to the jurisdiction of the commission, as aforesaid, during such calendar year. The commission shall then assess the amount so allocated to each group of public utilities, subject to reduction as herein provided, to the public utilities in such group in proportion to their respective gross intrastate operating revenues during the preceding calendar year, except that the total amount so assessed to all such public utilities shall not exceed one-fourth of one percent of the total gross intrastate operating revenues of all utilities subject to the jurisdiction of the commission.

3. The commission shall render a statement of such assessment to each such public utility on or before July first and the amount so assessed to each such public utility shall be paid by it to the director of revenue in full on or before July fifteenth next following the rendition of such statement, except that any such public utility may at its election pay such assessment in four equal installments not later than the following dates next following the rendition of said statement, to

1 wit: July fifteenth, October fifteenth, January fifteenth and April fifteenth. The director of
2 revenue shall remit such payments to the state treasurer.

3 4. The state treasurer shall credit such payments to a special fund, which is hereby
4 created, to be known as "The Public Service Commission Fund", which fund, or its successor fund
5 created pursuant to section 33.571, shall be devoted solely to the payment of expenditures actually
6 incurred by the commission and attributable to the regulation of such public utilities subject to the
7 jurisdiction of the commission, as aforesaid. Any amount remaining in such special fund or its
8 successor fund at the end of any fiscal year shall not revert to the general revenue fund, but shall
9 be applicable [by appropriation of the general assembly] to the payment of such expenditures of
10 the commission in the succeeding fiscal year and shall be applied by the commission to the
11 reduction of the amount to be assessed to such public utilities in such succeeding fiscal year, such
12 reduction to be allocated to each group of public utilities in proportion to the respective gross
13 intrastate operating revenues of the respective groups during the preceding calendar year.

14 5. In order to enable the commission to make the allocations and assessments herein
15 provided for, each public utility subject to the jurisdiction of the commission as aforesaid shall
16 file with the commission, within ten days after August 28, 1996, and thereafter on or before
17 March thirty-first of each year, a statement under oath showing its gross intrastate operating
18 revenues for the preceding calendar year, and if any public utility shall fail to file such statement
19 within the time aforesaid the commission shall estimate such revenue which estimate shall be
20 binding on such public utility for the purpose of this section.

21 386.715. 1. The public counsel shall, prior to the beginning of each fiscal year, make
22 available to the commission an estimate of the expenses to be incurred by the public counsel
23 during such fiscal year, reasonably attributable to his or her responsibilities with respect to public
24 utilities under sections 386.700 and 386.710 and shall also separately estimate the amount
25 of such expenses directly attributable to such responsibilities with respect to each of the following
26 groups of public utilities: electrical corporations, gas corporations, water corporations,
27 heating companies, telephone corporations, telegraph corporations, sewer corporations, and any
28 other public utility as defined in section 386.020, as well as the amount of such expenses not
29 directly attributable to any such group.

30 2. The public counsel shall allocate to each such group of public utilities the estimated
31 expenses directly attributable to his or her responsibilities under sections 386.700 and 386.710
32 with respect to such group and an amount equal to such proportion of the estimated expenses not
33 directly attributable to any group as the gross intrastate operating revenues of such group during
34 the three preceding calendar years bears to the total gross intrastate operating revenues of all
35 public utilities subject to the jurisdiction of the commission during such calendar years. The
36 amount so allocated to telephone corporations shall not exceed three percent of the total estimated

1 expenses directly attributable to the public counsel's responsibilities under sections 386.700 and
2 386.710. The commission shall then assess, on behalf of the public counsel, the amount so
3 allocated to each group of public utilities, subject to reduction as provided in this section, to the
4 public utilities in such group in proportion to its respective gross intrastate operating revenues
5 during the preceding calendar year. The total amount so assessed to all such public utilities shall
6 not exceed five hundredths of one percent of the total gross intrastate operating revenues of all
7 utilities subject to the jurisdiction of the commission. In the event that telephone corporations or
8 telegraph corporations are no longer subject to the jurisdiction of the commission, the total
9 amount so assessed to all public utilities subject to the jurisdiction of the commission shall
10 increase to an amount not to exceed six hundredths of one percent. Nothing in this section shall
11 authorize the commission to determine how the public counsel allocates the estimated expenses
12 directly attributable to his or her responsibilities under sections 386.700 and 386.710 with respect
13 to public utilities described in subsection 1 of this section or how the assessment imposed under
14 this section is spent by the public counsel.

15 3. On behalf of the public counsel, the commission shall render a statement of such
16 assessment to each such public utility on or before July first and the amount so assessed to each
17 such public utility shall be paid by it to the director of revenue in full on or before July fifteenth
18 next following the rendition of such statement, except that any such public utility may at its
19 election pay such assessment in four equal installments not later than the following dates next
20 following the rendition of such statement, to wit: July fifteenth, October fifteenth, January
21 fifteenth, and April fifteenth. The director of revenue shall remit such payments to the state
22 treasurer.

23 4. The state treasurer shall credit such payments to a special fund, which is hereby
24 created, to be known as "The Public Counsel Fund", which fund, or its successor fund created
25 under section 33.571, shall be devoted solely to the payment of expenditures actually incurred by
26 the public counsel and attributable to his or her responsibilities under sections 386.700 and
27 386.710 with respect to such public utilities subject to the jurisdiction of the commission and shall
28 consist of all gifts, donations, appropriations, transfers, payments, and bequests to the fund and
29 investment income on the fund. Any amount remaining in such special fund or its successor fund
30 at the end of any fiscal year shall not revert to the general revenue fund, but shall be applicable to
31 the payment of such expenditures of the public counsel in the succeeding fiscal
32 year and shall be applied by the public counsel to the reduction of the amount to be assessed to
33 such public utilities in such succeeding fiscal year, such reduction to be allocated to each group of
34 public utilities in proportion to the respective gross intrastate operating revenues of the respective
35 groups during the preceding calendar year.

36 5. In order to enable the public counsel to make the allocations and assessments provided

1 for in this section, each public utility subject to the jurisdiction of the commission shall file with
2 the commission on or before March thirty-first of each year, a statement under oath showing its
3 gross intrastate operating revenues for the preceding calendar year, and if any public utility shall
4 fail to file such statement within the time established in this subsection, the commission shall
5 estimate such revenue. Such estimate shall be binding on such public utility for the purpose of
6 this section.

7 393.135. 1. Any charge made or demanded by an electrical corporation for service, or in
8 connection therewith, which is based on the costs of construction in progress upon any existing or
9 new facility of the electrical corporation, or any other cost associated with owning, operating,
10 maintaining, or financing any property before it is fully operational and used for service, is unjust
11 and unreasonable, and is prohibited.

12 2. Notwithstanding the provisions of subsection 1 of this section, whenever an electrical
13 corporation obtains an early site permit granted by the United States Nuclear Regulatory
14 Commission or a successor organization, the commission shall allow recovery of the electrical
15 corporation's cost of obtaining the early site permit in the manner provided for in subsection 3 of
16 this section, for the prudently incurred expenditures directly resulting from the electrical
17 corporation's application for such permit. The amounts shall be recovered through each
18 applicable electrical corporation's rates charged to its ratepayers ratably over a period of ten years.
19 The electrical corporation shall use its best efforts to minimize the cost of applying for such
20 permit. The total amount of expenditures, including all interest, financing or other costs
21 recoverable under this subsection shall not exceed forty-five million dollars.

22 3. Recovery of the costs identified in subsection 2 of this section shall be provided
23 through the electrical corporation's rates or charges. Recovery shall commence with the effective
24 date of tariffs approved by the commission in the electrical corporation's first rate proceeding that
25 is filed after the Nuclear Regulatory Commission's grant of the early site permit
26 is final and nonappealable. Recovery shall be allowed only for expenditures directly resulting
27 from the electrical corporation's application for such permit that the commission has found to be
28 prudent and reasonable after consideration of all relevant factors in a general rate case. The
29 electrical corporation shall have the burden of establishing the prudence of such expenditures.

30 4. The commission shall require that any profits, accruing to an electrical corporation
31 from the sale or transfer of the early site permit, including explicit or implicit consideration in
32 joint development of a nuclear generating plant, be refunded to ratepayers with interest to the
33 extent the costs of the early site permit have been recovered in rates.

34 5. If the electrical corporation does not construct or participate in construction of a nuclear
35 generating plant at the site for which an early site permit is granted that is fully
36 operational and used to provide service within ten years after the Nuclear Regulatory

Commission's grant of the early site permit is final and nonappealable, the commission shall require that any cost recovery under subsection 3 of this section be refunded to the electrical corporation's customers with interest over a period of five years. However, if an electrical corporation has committed to a specific technology and location in writing to the commission, such corporation shall be granted a five-year extension before any cost recovery is to be refunded to the electrical corporation's customers. If, after a five-year extension, no good faith effort to construct or participate in the construction of a nuclear generating plant has been made, then the cost recovery for the five-year extension period with fifteen percent interest and determined in accordance with subsection 3 of this section, is to be refunded to the electrical corporation's customers.

6. There is hereby established the "Governor's Task Force on Electrical Generation Options". The task force shall review evidence regarding generation options, including nuclear power options other than a traditional large base load nuclear plant, including evidence regarding system benefits, rate impact, and financing options. The task force shall issue a report on or before September 30, 2012. The governor shall appoint members on the task force, which shall include an equal number of representatives of each of the following: the commission, the public counsel, industrial consumers, commercial consumers, investor-owned utilities, rural electric cooperatives, and municipal utilities. The governor shall also appoint at least one member to the task force from each additional consumer group seeking appointment to the task force."; and

Further amend said bill, Page 16, Section 393.1445, Line 4, by inserting after all of said line the following:

"620.010. 1. There is hereby created a "Department of Economic Development" to be headed by a director appointed by the governor, by and with the advice and consent of the senate. All of the general provisions, definitions and powers enumerated in section 1 of the Omnibus State Reorganization Act of 1974 shall continue to apply to this department and its divisions, agencies and personnel.

2. The powers, duties and functions vested in the public service commission, chapters 386, 387, 388, 389, 390, 392, 393, and others, and the administrative hearing commission, sections 621.015 to 621.198 and others, are transferred by type III transfers to the department of economic development. The director of the department is directed to provide and coordinate staff and equipment services to these agencies in the interest of facilitating the work of the bodies and achieving optimum efficiency in staff services common to all the bodies. Nothing in the Reorganization Act of 1974 shall prevent the chairman of the public service commission from presenting additional budget requests or from explaining or clarifying its budget requests to the governor or general assembly.

3. The powers, duties and functions vested in the office of the public counsel are

transferred by type III transfer to the department of economic development. [Funding for the general counsel's office shall be by general revenue.]

4. The public service commission is authorized to employ such staff as it deems necessary for the functions performed by the general counsel other than those powers, duties and functions relating to representation of the public before the public service commission.

5. All the powers, duties and functions vested in the tourism commission, chapter 258 and others, are transferred to the "Division of Tourism", which is hereby created, by type III transfer.

6. All the powers, duties and functions of the department of community affairs, chapter 251 and others, not otherwise assigned, are transferred by type I transfer to the department of economic development, and the department of community affairs is abolished. The director of the department of economic development may assume all the duties of the director of community affairs or may establish within the department such subunits and advisory committees as may be required to administer the programs so transferred. The director of the department shall appoint all members of such committees and heads of subunits.

7. The state council on the arts, chapter 185 and others, is transferred by type II transfer to the department of economic development, and the members of the council shall be appointed by the director of the department.

8. The Missouri housing development commission, chapter 215, is assigned to the department of economic development, but shall remain a governmental instrumentality of the state of Missouri and shall constitute a body corporate and politic.

9. All the authority, powers, duties, functions, records, personnel, property, matters pending and other pertinent vestiges of the division of manpower planning of the department of social services are transferred by a type I transfer to the "Division of Job Development and Training", which is hereby created, within the department of economic development. The division of manpower planning within the department of social services is abolished. The provisions of section 1 of the Omnibus State Reorganization Act of 1974, Appendix B, relating to the manner and procedures for transfers of state agencies shall apply to the transfers provided in this section.

10. Any rule or portion of a rule, as that term is defined in section 536.010, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536 and, if applicable, section 536.028. This section and chapter 536 are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536 to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2008, shall be invalid and void.

Section 1. If any section, subsection, subdivision, paragraph, sentence, or clause of section

1 386.370, 386.715, or 393.135 is held to be invalid or unconstitutional, such decision
2 shall not affect any remaining portion, section, or part thereof which can be given effect without
3 the invalid provision."; and

4 Further amend said bill, Page 18, Section 393.1045, Line 6, by inserting after all of said
5 line the following:

6 "Section B. Because immediate action is necessary to ensure adequate funding for public
7 representation in matters related to public utilities and to ensure sufficient and affordable energy
8 provision to citizens of the state, the repeal and reenactment of sections 386.370, 393.135, and
9 620.010 and the enactment of sections 386.715 and 1 of section A of this act is deemed necessary
10 for the immediate preservation of the public health, welfare, peace, and safety, and is hereby
11 declared to be an emergency act within the meaning of the constitution, and the repeal and
12 reenactment of sections 386.370, 393.135, and 620.010 and the enactment of sections 386.715 and
13 1 of section A of this act shall be in full force and effect upon its passage and approval."; and

14 Further amend said title, enacting clause and intersectional references accordingly.