

COMMITTEE ON LEGISLATIVE RESEARCH  
OVERSIGHT DIVISION

**FISCAL NOTE**

L.R. No.: 4791-01  
Bill No.: HB 1316  
Subject: Utilities; Telecommunications; Energy  
Type: Original  
Date: March 5, 2012

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

**FISCAL SUMMARY**

<b>ESTIMATED NET EFFECT ON GENERAL REVENUE FUND</b>			
FUND AFFECTED	FY 2013	FY 2014	FY 2015
General Revenue	\$525,922	\$1,072,066	\$1,083,863
<b>Total Estimated Net Effect on General Revenue Fund</b>	<b>\$525,922</b>	<b>\$1,072,066</b>	<b>\$1,083,863</b>

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

\*Offsetting Income and Cost

Numbers within parentheses: ( ) indicate costs or losses. This fiscal note contains 7 pages.

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

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

- 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).

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

## 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 **Joint Committee on Administrative Rules (JCAR)** stated this proposed legislation is not anticipated to cause a fiscal impact to JCAR beyond its current appropriation.

According to officials from the **Office of Secretary of State (SOS)**, many bills considered by the General Assembly include provisions allowing or requiring agencies to submit rules and regulations to implement the proposal. 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 \$2,500.

**Oversight** assumes the SOS could absorb the costs of printing and distributing regulations related to this proposal with core funding. If multiple bills pass which require the printing and distribution of regulations at substantial costs, the SOS could request funding through the appropriation process. Any decisions to raise fees to defray costs would likely be made in subsequent fiscal years.

### §386.370

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

OPC assumes 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. 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.

<u>FISCAL IMPACT - State Government</u>	FY 2013	FY 2014	FY 2015
<b>GENERAL REVENUE FUND</b>			
<u>Savings - Office of Public Counsel</u>			
Personal Service (14 FTE)	\$485,687	\$654,058	\$660,598
Fringe Benefits	\$257,123	\$346,258	\$349,721
Expense and Equipment	<u>\$52,500</u>	<u>\$71,750</u>	\$73,544
Total Savings - OPC (§386.730)	\$795,310	\$1,072,066	\$1,083,863
<u>Cost - Office of Public Counsel</u>			
Personal Service (14 FTE)	(\$161,896)	\$0	\$0
Fringe Benefits	(\$85,708)	\$0	\$0
Equipment and Expense	<u>(\$21,784)</u>	<u>\$0</u>	<u>\$0</u>
Total Cost - OPC (§386.370)	<u>(\$269,388)</u>	<u>\$0</u>	<u>\$0</u>
<b>ESTIMATED NET EFFECT ON GENERAL REVENUE FUND</b>	<b><u>\$525,922</u></b>	<b><u>\$1,072,066</u></b>	<b><u>\$1,083,863</u></b>

<u>FISCAL IMPACT - State Government</u>	FY 2013	FY 2014	FY 2015
ESTIMATED NET EFFECT ON FTE - GENERAL REVENUE	4 FTE - 3 Mo (14 FTE) - 9 Mo	(10 FTE)	(10 FTE)

<u>FISCAL IMPACT - State Government</u>	FY 2013	FY 2014	FY 2015
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**PUBLIC COUNSEL FUND**

<u>Income</u> - Increased assessments on regulated utilities (§386.370)	\$795,310	\$1,872,066	\$1,163,863
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<u>Cost</u> - Office of Public Counsel			
Personal Service (14 FTE)	(\$485,687)	(\$654,058)	(\$660,598)
Fringe Benefits	(\$257,123)	(\$346,258)	(\$349,721)
Expense and Equipment	<u>(\$52,500)</u>	<u>(\$71,750)</u>	<u>(\$73,544)</u>
Total Costs - OPC (§386.370)	(\$795,310)	(\$1,072,066)	(\$1,083,863)

<u>Cost</u> - Office of Public Counsel - Expert witness fees (§393.135)	\$0	(\$80,000)	(\$80,000)
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<b>ESTIMATED NET EFFECT ON PUBLIC COUNSEL FUND</b>	<b><u>\$0</u></b>	<b><u>\$0</u></b>	<b><u>\$0</u></b>
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ESTIMATED NET EFFECT ON FTE - PUBLIC COUNSEL FUND	14 FTE	14 FTE	14 FTE
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<u>FISCAL IMPACT - Local Government</u>	FY 2013	FY 2014	FY 2015
	<b><u>\$0</u></b>	<b><u>\$0</u></b>	<b><u>\$0</u></b>

FISCAL IMPACT - Small Business

No direct fiscal impact to small businesses would be expected as a result of this proposal.

## FISCAL DESCRIPTION

This proposal changes the laws regarding the regulation of utilities.

### §386.370

The total amount of assessments to all public utilities to fund the Missouri Public Service Commission is reduced from a maximum of one-fourth of 1% to twenty-two hundredths of 1% of the total gross intrastate operating revenues of all utilities subject to the jurisdiction of the commission. The Office of Public Counsel is allowed to be funded by a maximum of two hundredths of 1% of the total gross intrastate operating revenues of all utilities subject to the jurisdiction of the commission and the amount allocated to telecommunications companies cannot exceed 3% of the total estimated expenses directly attributable to the public counsel's responsibilities.

The Public Counsel Fund is created to be used solely for the payment of expenditures actually incurred by the public counsel attributable to his or her responsibilities. The public counsel will be allowed to attribute regulatory expenses in the same manner as the commission for the purpose of receiving a proportion of gross operating revenue.

If any electrical corporation is granted a license from the United States Nuclear Regulatory Commission, the commission funding must increase to an amount not to exceed twenty-three hundredths of 1% and the public counsel funding must increase to an amount not to exceed three hundredths of 1% of the total gross intrastate operating revenues of all utilities subject to the jurisdiction of the commission for the fiscal year after the license was granted and for each year thereafter.

### §393.135

After October 1, 2012, an electrical corporation seeking an early site permit from the United States Nuclear Regulatory Commission, upon beginning the permitting process, is required to submit monitoring reports to the Missouri Public Service Commission every six months documenting work completed, total expenditures to date, work yet to be completed, and anticipated expenditures in order to obtain the permit. An electrical company that has obtained an early site permit is allowed to recover from ratepayers the costs associated with early site development for certain electrical generation facilities. An electric utility seeking a permit may recover up to \$45 million in prudently incurred expenses for obtaining a site permit.

If a license is not granted, the commission has authority to determine if the costs of seeking the permit were imprudent and may require the electrical corporation to credit ratepayers with the amount of the imprudent costs over a period of not less than five but not more than 10 years.

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  
Department of Natural Resources  
Department of Revenue  
Joint Committee on Administrative Rules  
Office of Secretary of State  
    Administrative Rules Division  
Office of State Treasurer



Mickey Wilson, CPA  
Director  
March 5, 2012