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MISSOURI SENATE

President Pro Tem

Tom Dempsey

DISTRICT 23

March 25, 2013

Robert Kenney, Chairman
Public Service Commission
200 Madison St., Box 360
Jefferson City, MO 65102

Dear Mr. Kenney:

Section 386.380.2 *RSMo* (see attached) contemplates the Missouri Public Service Commission (PSC) holding a public hearing and taking testimony on pending legislation upon the request of "the legislature or either branch thereof." The plain reading of this sentence indicates that such a request is valid only if it comes from "the legislature" (i.e. a joint request from the house and senate) or "by either branch thereof" (i.e. a request from either the house or the senate). A single member does not constitute a "branch" of the legislature unless perhaps in the case of a request from the speaker of the house or the president pro tem of the senate acting in their capacity as the elected presiding officers of their respective branches.

I am aware of no precedent in which the PSC has conducted a hearing at the request of a single member of the legislature. If the PSC chooses to set such a precedent, bear in mind the implications for the future. The statute leaves the PSC no discretion as to how many such hearings it will hold. It simply states, "the commission shall conduct a hearing and take testimony relative to any pending legislation with respect to any person, corporation or matter within the jurisdiction of the commission." The precedent will have been established that any member of the legislature "shall" be entitled to a hearing on any matter within the jurisdiction of the PSC.

I would strongly encourage you to reconsider the decision to hold a hearing on SB 207/HB 398 without a written request from either the speaker of the house or the president pro tem of the senate. In the alternative, a resolution passed by either or both bodies would also comply with the provisions of the statute.

Sincerely,

A handwritten signature in black ink that reads "Tom Dempsey".

Tom Dempsey
President Pro Tem

TD/kd

Reports of commission.

386.380. 1. All proceedings of the commission and all documents and records in its possession shall be public records. The commission shall make and submit to the governor on or before the second Monday in January in each year a report containing a full and complete account of its transactions and proceedings for the preceding fiscal year, together with such other facts, suggestions and recommendations as it may deem of value to the people of the state, which report shall be laid before the next succeeding legislature.

2. The commission shall conduct a hearing and take testimony relative to any pending legislation with respect to any person, corporation or matter within the jurisdiction of the commission, **if requested to do so by the legislature or by either branch thereof** or by the governor, and shall report its conclusions to the legislature, or to the governor if the request was made by him. The commission may also recommend the enactment of such legislation with respect to any matter within its jurisdiction as it deems wise or necessary in the public interest.

(RSMo 1939 § 5594)