

SENATE BILL NO. 741

102ND GENERAL ASSEMBLY

INTRODUCED BY SENATOR CIERPIOT.

3788S.02I

KRISTINA MARTIN, Secretary

AN ACT

To repeal sections 393.320 and 393.1506, RSMo, and to enact in lieu thereof two new sections relating to large water public utilities.

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

Section A. Sections 393.320 and 393.1506, RSMo, are
2 repealed and two new sections enacted in lieu thereof, to be
3 known as sections 393.320 and 393.1506, to read as follows:

393.320. 1. As used in this section, the following
2 terms mean:

3 (1) "Large water public utility", a public utility:

4 (a) That regularly provides water service [or sewer
5 service] to more than eight thousand customer connections,
6 **regularly provides sewer service to more than eight thousand**
7 **customer connections, or regularly provides a combination of**
8 **either to more than eight thousand customer connections;** and

9 (b) That provides safe and adequate service but shall
10 not include a sewer district established under Section
11 30(a), Article VI of the Missouri Constitution, sewer
12 districts established under the provisions of chapter 204,
13 249, or 250, public water supply districts established under
14 the provisions of chapter 247, or municipalities that own
15 water or sewer systems;

16 (2) "Small water utility", a public utility that
17 regularly provides water service or sewer service to eight
18 thousand or fewer customer connections; a water district

EXPLANATION-Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

19 established under the provisions of chapter 247 that
20 regularly provides water or sewer service to eight thousand
21 or fewer customer connections; a sewer district established
22 under the provisions of chapter 204, 249, or 250 that
23 regularly provides sewer service to eight thousand or fewer
24 customer connections; or a water system or sewer system
25 owned by a municipality that regularly provides water
26 service or sewer service to eight thousand or fewer customer
27 connections; and all other entities that regularly provide
28 water service or sewer service to eight thousand or fewer
29 customer connections.

30 2. The procedures contained in this section may be
31 chosen by a large water public utility, and if so chosen
32 shall be used by the public service commission to establish
33 the ratemaking rate base of a small water utility during an
34 acquisition.

35 3. (1) An appraisal shall be performed by three
36 appraisers. One appraiser shall be appointed by the small
37 water utility, one appraiser shall be appointed by the large
38 water public utility, and the third appraiser shall be
39 appointed by the two appraisers so appointed. Each of the
40 appraisers shall be a disinterested person who is a
41 certified general appraiser under chapter 339.

42 (2) The appraisers shall:

43 (a) Jointly prepare an appraisal of the fair market
44 value of the water system and/or sewer system. The
45 determination of fair market value shall be in accordance
46 with Missouri law and with the Uniform Standards of
47 Professional Appraisal Practice; and

48 (b) Return their appraisal, in writing, to the small
49 water utility and large water public utility in a reasonable
50 and timely manner.

51 (3) If all three appraisers cannot agree as to the
52 appraised value, the appraisal, when signed by two of the
53 appraisers, constitutes a good and valid appraisal.

54 4. Nothing in this section shall prohibit a party from
55 declining to proceed with an acquisition or be deemed as
56 establishing the final purchase price of an acquisition.

57 5. (1) The lesser of the purchase price or the
58 appraised value, together with the reasonable and prudent
59 transaction, closing, and transition costs incurred by the
60 large water public utility, shall constitute the ratemaking
61 rate base for the small water utility as acquired by the
62 acquiring large water public utility; provided, however,
63 that if the small water utility is a public utility subject
64 to chapter 386 and the small water utility completed a rate
65 case prior to the acquisition, the public service commission
66 may select as the ratemaking rate base for the small water
67 utility as acquired by the acquiring large water public
68 utility a ratemaking rate base in between:

69 (a) The lesser of the purchase price or the appraised
70 value, together with the reasonable and prudent transaction,
71 closing, and transition costs incurred by the large water
72 public utility unless such transaction, closing, and
73 transition costs are elsewhere recoverable in rates; and

74 (b) The ratemaking rate base of the small water
75 utility as ordered by the public service commission in the
76 small water utility's last previous rate case as adjusted by
77 improvements and depreciation reserve since the previous
78 rate case together with the transaction, closing, and
79 transition costs incurred by the large water public utility
80 unless such transaction, closing, and transition costs are
81 elsewhere recoverable in rates. If the small water utility
82 and large water public utility proceed with the sale, any

83 past-due fees due to the state from the small water utility
84 or its customers under chapter 640 or 644 shall be resolved
85 prior to the transfer of ownership or the liability for such
86 past-due fees becomes the responsibility of the large water
87 public utility. Such fees shall not be included in the
88 large water public utility's rate base.

89 (2) The public service commission shall issue its
90 decision establishing the ratemaking rate base of the small
91 water utility in its order approving the acquisition **within**
92 **six months of the submission of the application by the large**
93 **water public utility to acquire a small water utility. If**
94 **the public service commission does not issue a decision**
95 **within six months, such application shall be automatically**
96 **approved.**

97 (3) Prior to the expiration of the six-month period,
98 the public service commission staff or the office of public
99 counsel may request, upon a showing of good cause, from the
100 public service commission an extension for approval of the
101 application for an additional thirty days.

102 6. Upon the date of the acquisition of a small water
103 utility by a large water public utility, whether or not the
104 procedures for establishing ratemaking rate base provided by
105 this section have been utilized, the small water utility
106 shall, for ratemaking purposes, become part of an existing
107 service area, as defined by the public service commission,
108 of the acquiring large water public utility that is either
109 contiguous to the small water utility, the closest
110 geographically to the small water utility, or best suited
111 due to operational or other factors. This consolidation
112 shall be approved by the public service commission in its
113 order approving the acquisition.

114 7. Any new permit issued pursuant to chapters 640 and
115 644, when a small water utility is acquired by a large water
116 public utility, shall include a plan to resolve all
117 outstanding permit compliance issues. After the transfer of
118 ownership, the acquiring large public water utility shall
119 continue providing service to all customers that were served
120 by the small water utility at the time of sale.

121 8. This section is intended for the specific and
122 unique purpose of determining the ratemaking rate base of
123 small water utilities and shall be exclusively applied to
124 large water public utilities in the acquisition of a small
125 water utility. This section is not intended to apply beyond
126 its specific purpose and shall not be construed in any
127 manner to apply to electric corporations, natural gas
128 corporations, or any other utility regulated by the public
129 service commission.

393.1506. 1. Notwithstanding any provisions of
2 chapter 386 and this chapter to the contrary, a water or
3 sewer corporation that provides water [or sewer] service to
4 more than eight thousand customer connections, **sewer service**
5 **to more than eight thousand customer connections, or a**
6 **combination of either to more than eight thousand customer**
7 **connections** may file a petition and proposed rate schedules
8 with the commission to establish or change a WSIRA that will
9 provide for the recovery of the appropriate pretax revenues
10 associated with the eligible infrastructure system projects,
11 less the appropriate pretax revenues associated with any
12 retired utility plant that is being replaced by the eligible
13 infrastructure system projects. The WSIRA shall not produce
14 revenues in excess of fifteen percent of the water or sewer
15 corporation's base revenue requirement approved by the
16 commission in the water or sewer corporation's most recent

17 general rate proceeding; provided, however, that neither
18 WSIRA revenues attributable to replacement of customer-owned
19 lead service lines, nor any reconciliation amounts described
20 in subdivision (2) of subsection 5 of section 393.1509,
21 shall count toward the program cap. The WSIRA and any
22 future changes thereto shall be calculated and implemented
23 in accordance with the provisions of sections 393.1503 to
24 393.1509. WSIRA revenues shall be subject to refund based
25 upon a finding and order of the commission, to the extent
26 provided in subsections 5 and 8 of section 393.1509.

27 2. The commission shall not approve a WSIRA for a
28 water or sewer corporation that has not had a general rate
29 proceeding decided or dismissed by issuance of a commission
30 order within the past three years of the filing of a
31 petition pursuant to this section unless the water or sewer
32 corporation has filed for or is the subject of a new general
33 rate proceeding.

34 3. In no event shall a water or sewer corporation
35 collect a WSIRA for a period exceeding three years unless
36 the water or sewer corporation has filed for or is the
37 subject of a pending general rate proceeding; provided that
38 the WSIRA may be collected until the effective date of new
39 rate schedules established as a result of the new general
40 rate proceeding or until the subject general rate proceeding
41 is otherwise decided or dismissed by issuance of a
42 commission order without new rates being established.

43 4. Except as provided in this subsection, in no event
44 shall a water or sewer corporation collect a WSIRA if also
45 collecting revenues from a commission approved
46 infrastructure system replacement surcharge as provided in
47 sections 393.1000 to 393.1006. In no event shall a customer
48 be charged both an infrastructure system replacement

49 surcharge as provided in sections 393.1000 to 393.1006 and a
50 WSIRA. In the event a water or sewer corporation is
51 collecting infrastructure system replacement surcharge
52 revenues under sections 393.1000 to 393.1006, that was
53 approved prior to August 28, 2021, when the initial WSIRA is
54 filed, the approved infrastructure system replacement
55 surcharge revenues shall be included in the new WSIRA filing.

✓