

FIRST REGULAR SESSION
SENATE COMMITTEE SUBSTITUTE FOR
HOUSE COMMITTEE SUBSTITUTE FOR

HOUSE BILL NO. 1152

102ND GENERAL ASSEMBLY

2477S.05C

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2 repealed and two new sections enacted in lieu thereof, to be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 water or sewer**
8 **service to an aggregate of more than eight thousand customer**
9 **connections;** and

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

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

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

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

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

43 (2) The appraisers shall:

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

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

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

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

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

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

75 (b) The ratemaking rate base of the small water
76 utility as ordered by the public service commission in the
77 small water utility's last previous rate case as adjusted by
78 improvements and depreciation reserve since the previous
79 rate case together with the transaction, closing, and
80 transition costs incurred by the large water public utility

81 unless such transaction, closing, and transition costs are
82 elsewhere recoverable in rates. If the small water utility
83 and large water public utility proceed with the sale, any
84 past-due fees due to the state from the small water utility
85 or its customers under chapter 640 or 644 shall be resolved
86 prior to the transfer of ownership or the liability for such
87 past-due fees becomes the responsibility of the large water
88 public utility. Such fees shall not be included in the
89 large water public utility's rate base.

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

98 (3) The public service commission may promulgate rules
99 necessary for the effectuation of this section, including
100 but not limited to, requirements for information disclosure
101 due at the time an application is made for the acquisition
102 of a small water utility by a large water public utility.
103 Any rule or portion of a rule, as that term is defined in
104 section 536.010, that is created under the authority
105 delegated in this section shall become effective only if it
106 complies with and is subject to all the provisions of
107 chapter 536 and, if applicable, section 536.028. This
108 section and chapter 536 are nonseverable and if any of the
109 powers vested with the general assembly pursuant to chapter
110 536 to review, to delay the effective date, or to disapprove
111 and annul a rule are subsequently held unconstitutional,
112 then the grant of rulemaking authority and any rule proposed

113 **or adopted after August 28, 2023, shall be invalid and**
114 **void. The provision of this subdivision only applies to the**
115 **provision of subdivision (2) of this subsection.**

116 6. Upon the date of the acquisition of a small water
117 utility by a large water public utility, whether or not the
118 procedures for establishing ratemaking rate base provided by
119 this section have been utilized, the small water utility
120 shall, for ratemaking purposes, become part of an existing
121 service area, as defined by the public service commission,
122 of the acquiring large water public utility that is either
123 contiguous to the small water utility, the closest
124 geographically to the small water utility, or best suited
125 due to operational or other factors. This consolidation
126 shall be approved by the public service commission in its
127 order approving the acquisition.

128 7. Any new permit issued pursuant to chapters 640 and
129 644, when a small water utility is acquired by a large water
130 public utility, shall include a plan to resolve all
131 outstanding permit compliance issues. After the transfer of
132 ownership, the acquiring large public water utility shall
133 continue providing service to all customers that were served
134 by the small water utility at the time of sale.

135 8. This section is intended for the specific and
136 unique purpose of determining the ratemaking rate base of
137 small water utilities and shall be exclusively applied to
138 large water public utilities in the acquisition of a small
139 water utility. This section is not intended to apply beyond
140 its specific purpose and shall not be construed in any
141 manner to apply to electric corporations, natural gas
142 corporations, or any other utility regulated by the public
143 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 water**
6 **or sewer service to an aggregate of more than eight thousand**
7 **customer connections** may file a petition and proposed rate
8 schedules with the commission to establish or change a WSIRA
9 that will provide for the recovery of the appropriate pretax
10 revenues associated with the eligible infrastructure system
11 projects, less the appropriate pretax revenues associated
12 with any retired utility plant that is being replaced by the
13 eligible infrastructure system projects. The WSIRA shall
14 not produce revenues in excess of fifteen percent of the
15 water or sewer corporation's base revenue requirement
16 approved by the commission in the water or sewer
17 corporation's most recent general rate proceeding; provided,
18 however, that neither WSIRA revenues attributable to
19 replacement of customer-owned lead service lines, nor any
20 reconciliation amounts described in subdivision (2) of
21 subsection 5 of section 393.1509, shall count toward the
22 program cap. The WSIRA and any future changes thereto shall
23 be calculated and implemented in accordance with the
24 provisions of sections 393.1503 to 393.1509. WSIRA revenues
25 shall be subject to refund based upon a finding and order of
26 the commission, to the extent provided in subsections 5 and
27 8 of section 393.1509.

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

33 corporation has filed for or is the subject of a new general
34 rate proceeding.

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

44 4. Except as provided in this subsection, in no event
45 shall a water or sewer corporation collect a WSIRA if also
46 collecting revenues from a commission approved
47 infrastructure system replacement surcharge as provided in
48 sections 393.1000 to 393.1006. In no event shall a customer
49 be charged both an infrastructure system replacement
50 surcharge as provided in sections 393.1000 to 393.1006 and a
51 WSIRA. In the event a water or sewer corporation is
52 collecting infrastructure system replacement surcharge
53 revenues under sections 393.1000 to 393.1006, that was
54 approved prior to August 28, 2021, when the initial WSIRA is
55 filed, the approved infrastructure system replacement
56 surcharge revenues shall be included in the new WSIRA filing.

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