

FIRST REGULAR SESSION

HOUSE BILL NO. 759

94TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE MUNZLINGER.

Read 1st time February 6, 2007 and copies ordered printed.

D. ADAM CRUMBLISS, Chief Clerk

1591L.02I

AN ACT

To repeal sections 393.715, 393.720, and 393.740, RSMo, and to enact in lieu thereof three new sections relating to joint municipal utility projects.

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

Section A. Sections 393.715, 393.720, and 393.740, RSMo, are repealed and three new sections enacted in lieu thereof, to be known as sections 393.715, 393.720, and 393.740, to read as follows:

393.715. 1. The general powers of a commission to the extent provided in section 393.710 to be exercised for the benefit of its contracting members shall include the power to:

(1) Plan, develop, acquire, construct, reconstruct, operate, manage, dispose of, participate in, maintain, repair, extend or improve one or more projects, either exclusively or jointly or by participation with electric cooperative associations, municipally owned or public utilities or acquire any interest in or any rights to capacity of a project, within or outside the state, and act as an agent, or designate one or more other persons participating in a project to act as its agent, in connection with the planning, acquisition, construction, operation, maintenance, repair, extension or improvement of such project;

(2) Acquire, sell, distribute and process fuels necessary to the production of electric power and energy; provided, however, the commission shall not have the power or authority to erect, own, use or maintain a transmission line which is parallel or generally parallel to another transmission line in place within a distance of two miles, which serves the same general area

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

14 sought to be served by the commission unless the public service commission finds that it is not
15 feasible to utilize the transmission line which is in place;

16 (3) Acquire by purchase or lease, construct, install, and operate reservoirs, pipelines,
17 wells, check dams, pumping stations, water purification plants, and other facilities for the
18 production, wholesale distribution, and utilization of water and to own and hold such real and
19 personal property as may be necessary to carry out the purposes of its organization; provided,
20 however, that a commission shall not sell or distribute water, at retail or wholesale, within the
21 certificated area of a water corporation which is subject to the jurisdiction of the public service
22 commission unless the sale or distribution of water is within the boundaries of a public water
23 supply district or municipality which is a contracting municipality in the commission and the
24 commission has obtained the approval of the public service commission prior to commencing
25 such said sale or distribution of water;

26 (4) Acquire by purchase or lease, construct, install, and operate lagoons, pipelines, wells,
27 pumping stations, sewage treatment plants and other facilities for the treatment and
28 transportation of sewage and to own and hold such real and personal property as may be
29 necessary to carry out the purposes of its organization;

30 (5) Enter into operating, franchises, exchange, interchange, pooling, wheeling,
31 transmission and other similar agreements with any person;

32 (6) Make and execute contracts and other instruments necessary or convenient to the
33 exercise of the powers of the commission;

34 (7) Employ agents and employees;

35 (8) Contract with any person, within or outside the state, for the construction of any
36 project or for any interest therein or any right to capacity thereof, without advertising for bids,
37 preparing final plans and specifications in advance of construction, or securing performance and
38 payment of bonds, except to the extent and on such terms as its board of directors or executive
39 committee shall determine. Any contract entered into pursuant to this subdivision shall contain
40 a provision that the requirements of sections 290.210 to 290.340, RSMo, shall apply;

41 (9) Purchase, sell, exchange, transmit, treat, dispose or distribute water, sewage, gas, heat
42 or electric power and energy, or any by-product resulting therefrom, within and outside the state,
43 in such amounts as it shall determine to be necessary and appropriate to make the most effective
44 use of its powers and to meet its responsibilities, and to enter into agreements with any person
45 with respect to such purchase, sale, exchange, treatment, disposal or transmission, on such terms
46 and for such period of time as its board of directors or executive committee shall determine. A
47 commission may not sell or distribute water, gas, heat or power and energy, or sell sewage
48 service at retail to ultimate customers outside the boundary limits of its contracting
49 municipalities except pursuant to subsection 2 or 3 of this section;

50 (10) Acquire, own, hold, use, lease, as lessor or lessee, sell or otherwise dispose of,
51 mortgage, pledge, or grant a security interest in any real or personal property, commodity or
52 service or interest therein;

53 (11) Exercise the powers of eminent domain for public use as provided in chapter 523,
54 RSMo, except that the power of eminent domain shall not be exercised against any electric
55 cooperative association, municipally owned or public utility;

56 (12) Incur debts, liabilities or obligations including the issuance of bonds pursuant to the
57 authority granted in section 27 of article VI of the Missouri Constitution;

58 (13) Sue and be sued in its own name;

59 (14) Have and use a corporate seal;

60 (15) Fix, maintain and revise fees, rates, rents and charges for functions, services,
61 facilities or commodities provided by the commission. **The powers enumerated in this**
62 **subdivision shall constitute the power to tax for purposes of article 10, section 15 of the**
63 **Missouri Constitution;**

64 (16) Make, and from time to time, amend and repeal, bylaws, rules and regulations not
65 inconsistent with this section to carry into effect the powers and purposes of the commission;

66 (17) Notwithstanding the provisions of any other law, invest any funds held in reserve
67 or sinking funds, or any funds not required for immediate disbursement, including the proceeds
68 from the sale of any bonds, in such obligations, securities and other investments as the
69 commission deems proper;

70 (18) Join organizations, membership in which is deemed by the board of directors or its
71 executive committee to be beneficial to accomplishment of the commission's purposes;

72 (19) Exercise any other powers which are deemed necessary and convenient by the
73 commission to effectuate the purposes of the commission; and

74 (20) Do and perform any acts and things authorized by this section under, through or by
75 means of an agent or by contracts with any person.

76 2. When a municipality purchases a privately owned water utility and a commission is
77 created pursuant to sections 393.700 to 393.770, the commission may continue to serve those
78 locations previously receiving water from the private utility even though the location receives
79 such service outside the geographical area of the municipalities forming the commission. New
80 water service may be provided in such areas if the site to receive such service is located within
81 one-fourth of a mile from a site serviced by the privately owned water utility.

82 3. When a commission created by any of the contracting entities listed in subdivision (4)
83 of section 393.705 becomes a successor to any nonprofit water corporation, nonprofit sewer
84 corporation or other nonprofit agency or entity organized to provide water or sewer service, the
85 commission may continue to serve, as well as provide new service to, those locations and areas

86 previously receiving water or sewer service from such nonprofit entity, regardless of whether or
87 not such location receives such service outside the geographical service area of the contracting
88 entities forming such commission; provided that such locations and areas previously receiving
89 water and sewer service from such nonprofit entity are not located within:

90 (1) Any county of the first classification with a population of more than six hundred
91 thousand and less than nine hundred thousand;

92 (2) The boundaries of any sewer district established pursuant to article VI, section 30(a)
93 of the Missouri Constitution; or

94 (3) The certificated area of a water or sewer corporation that is subject to the jurisdiction
95 of the public service commission.

393.720. Any commission established by joint contract under sections 393.700 to
2 393.770 shall constitute a body public and corporate of the state, exercising public powers for
3 the benefit of its contracting members and in order to carry out the public purposes and the
4 public functions of its contracting members. It shall have the duties, privileges, immunities,
5 rights, liabilities and disabilities of its contracting members and as a public body politic and
6 corporate, **including the power to tax**, but shall not have **any additional** taxing power separate
7 from that of its members nor shall it have the benefit of the doctrine of sovereign immunity.

393.740. 1. All bonds issued pursuant to sections 393.700 to 393.770 and all income
2 or interest thereon shall be exempt from all state taxes, except estate and transfer taxes.

3 2. All property, real and tangible personal, except for properties acquired exclusively for
4 water supply districts **and water supply commissions**, acquired by the bonds issued pursuant
5 to sections 393.700 and 393.770 or otherwise acquired by a commission shall be subject to
6 taxation for state, county, and municipal and other local purposes only to the same extent as if
7 such property was owned directly by each contracting or participating municipality in such
8 proportion or manner as specified by contract among all contracting or participating
9 municipalities party to a project or if not specified in proportion to the percentage of each
10 municipality's interest or participation in the facility or property.

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