

SECOND REGULAR SESSION
HOUSE COMMITTEE SUBSTITUTE FOR
SENATE BILL NO. 897
95TH GENERAL ASSEMBLY

4938L.04C

D. ADAM CRUMBLISS, Chief Clerk

AN ACT

To repeal sections 204.300, 204.472, 204.571, 250.233, 386.210, 393.150, 393.1000, 393.1003, 644.036, 644.054, and 660.122, RSMo, and to enact in lieu thereof thirteen new sections relating to utilities, with an emergency clause for a certain section.

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

Section A. Sections 204.300, 204.472, 204.571, 250.233, 386.210, 393.150, 393.1000, 393.1003, 644.036, 644.054, and 660.122, RSMo, are repealed and thirteen new sections enacted in lieu thereof, to be known as sections 204.300, 204.472, 204.571, 250.233, 386.210, 386.715, 393.150, 393.320, 393.1000, 393.1003, 644.036, 644.054, and 660.122, to read as follows:

204.300. 1. In all counties except counties of the first classification which have a charter form of government and which contain all or any portion of a city with a population of three hundred fifty thousand or more inhabitants, the governing body of the county, by resolution, order, or ordinance, shall appoint five trustees, the majority of whom shall reside within the boundaries of the district. In the event the district extends into any county bordering the county in which the greater portion of the district lies, the presiding commissioner or other chief executive officer of the adjoining county shall be an additional member of the appointed board of trustees. The trustees may be paid reasonable compensation by the district for their services; except that, any compensation schedule shall be approved by resolution of the board of trustees. The board of trustees shall be responsible for the control and operation of the sewer district. The term of each board member shall be five years; except that, members of the governing body of the county sitting upon the board shall not serve beyond the expiration of their term as members of such governing body of the county. The first board of trustees shall be appointed for terms ranging from one to five years so as to establish one vacancy per year thereafter. **If the governing body of the county with the right of appointment under this subsection fails to**

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.

16 **appoint a trustee to fill a vacancy on the board within sixty days after receiving written**
17 **notice from the common sewer district of the existence of such vacancy, then the vacancy**
18 **may be filled by a majority of the remaining members then in office of the board of trustees**
19 **of such common sewer district.** The trustees may be paid reasonable compensation by the
20 district for their services; except that, any compensation schedule shall be approved by
21 resolution, order, or ordinance of the governing body of the county. Any and all expenses
22 incurred in the performance of their duties shall be reimbursed by the district. The board of
23 trustees shall have the power to employ and fix the compensation of such staff as may be
24 necessary to discharge the business and purposes of the district, including clerks, attorneys,
25 administrative assistants, and any other necessary personnel. The board of trustees shall select
26 a treasurer, who may be either a member of the board of trustees or another qualified individual.
27 The treasurer selected by the board shall give such bond as may be required by the board of
28 trustees. The board of trustees shall appoint the sewer engineer for the county in which the
29 greater part of the district lies as chief engineer for the district, and the sewer engineer shall have
30 the same powers, responsibilities and duties in regard to planning, construction and maintenance
31 of the sewers, and treatment facilities of the district as he now has by virtue of law in regard to
32 the sewer facilities within the county for which he is elected. If there is no sewer engineer in the
33 county in which the greater part of the district lies, the board of trustees may employ a registered
34 professional engineer as chief engineer for the district under such terms and conditions as may
35 be necessary to discharge the business and purposes of the district. The provisions of this
36 subsection shall not apply to any county of the first classification which has a charter form of
37 government and which contains all or any portion of a city with a population of three hundred
38 fifty thousand or more inhabitants.

39 2. In any county of the first classification which has a charter form of government and
40 which contains all or any portion of a city with a population of three hundred fifty thousand or
41 more inhabitants, and in any county of the first classification without a charter form of
42 government and which has a population of more than sixty-three thousand seven hundred but
43 less than seventy-five thousand, there shall be [an eight-member] **a ten-member** board of
44 trustees to consist of the county executive, the mayors of the [four] **five** cities constituting the
45 largest users by flow during the previous fiscal year, the mayors of [two] **three** cities which are
46 not among the [four] **five** largest users and who are members of the advisory board of the district
47 established pursuant to section 204.310, and one member of the county legislature to be
48 appointed by the county executive, with the concurrence of the county legislature. If the county
49 executive does not appoint such members of the county legislature to the board of trustees within
50 sixty days, the county legislature shall make the appointments. The advisory board members
51 shall be appointed annually by the advisory board. In the event the district extends into any

52 county bordering the county in which the greater portion of the district lies, the number of
53 members on the board of trustees shall be increased to a total of ~~[nine]~~ **eleven** and the presiding
54 commissioner or county executive of the adjoining county shall be an additional member of the
55 board of trustees. The trustees shall receive no compensation for their services, but may be
56 compensated for their reasonable expenses normally incurred in the performance of their duties.
57 The board of trustees may employ and fix the compensation of such staff as may be necessary
58 to discharge the business and purposes of the district, including clerks, attorneys, administrative
59 assistants, and any other necessary personnel. The board of trustees may employ and fix the
60 duties and compensation of an administrator for the district. The administrator shall be the chief
61 executive officer of the district subject to the supervision and direction of the board of trustees
62 and shall exercise the powers, responsibilities and duties heretofore exercised by the chief
63 engineer prior to September 28, 1983. The administrator of the district may, with the approval
64 of the board of trustees, retain consulting engineers for the district under such terms and
65 conditions as may be necessary to discharge the business and purposes of the district. The
66 provisions of this subsection shall only apply to counties of the first classification which have
67 a charter form of government and which contain all or any portion of a city with a population of
68 three hundred fifty thousand or more inhabitants.

204.472. 1. **(1)** Whenever all or any part of a territory located within a sewer district
2 that is located in any county of the third classification without a township form of government
3 and with more than forty thousand eight hundred but less than forty thousand nine hundred
4 inhabitants is included by annexation within the corporate limits of any city of the third
5 classification with more than sixteen thousand six hundred but less than sixteen thousand seven
6 hundred inhabitants, but is not receiving sewer service from such district or city at the time of
7 such annexation, the city and the board of trustees of the district may, within six months after
8 such annexation becomes effective, develop an agreement to provide sewer service to the
9 annexed territory. Such an agreement may also be developed for territory that was annexed
10 between January 1, 1996, and August 28, 2002, but was not receiving sewer service from such
11 district or such city on August 28, 2002. For the purposes of this section, "not receiving sewer
12 service" shall mean that no sewer services are being sold within the annexed territory by such
13 district or city. If the city and the board reach an agreement that detaches any territory from such
14 district, the agreement shall be submitted to the circuit court having jurisdiction over the major
15 portion, and the circuit court shall make an order and judgment detaching the territory described
16 in the agreement from the remainder of the district and stating the boundary lines of the district
17 after such detachment. At such time that the circuit court's order and judgment becomes final,
18 the clerk of the circuit court shall file certified copies of such order and judgment with the
19 secretary of state and with the recorder of deeds and the county clerk of the county or counties

20 in which the district is located. If an agreement is developed between a city and a sewer district
21 pursuant to this subsection, subsections 2 to 8 of this section shall not apply to such agreement.

22 **(2) Whenever all or any part of a territory located within a sewer district that is**
23 **located in any county of the third classification is included by annexation within the**
24 **corporate limits of any city, but is not receiving sewer service from such district or city at**
25 **the time of such annexation, the city and the board of trustees of the district may, within**
26 **six months after such annexation becomes effective, develop an agreement to provide sewer**
27 **service to the annexed territory. Such an agreement may also be developed for territory**
28 **that was annexed prior to August 28, 2010, but was not receiving sewer service from such**
29 **district or such city as of August 28, 2010. For the purposes of this section, "not receiving**
30 **sewer service" shall mean that no sewer services are being sold within the annexed**
31 **territory by such district or city. If the city and the board reach an agreement that**
32 **detaches any territory from such district, the agreement shall be submitted to the circuit**
33 **court having jurisdiction over the major portion, and the circuit court shall make an order**
34 **and judgment detaching the territory described in the agreement from the remainder of**
35 **the district and stating the boundary lines of the district after such detachment. At such**
36 **time that the circuit court's order and judgment becomes final, the clerk of the circuit**
37 **court shall file certified copies of such order and judgment with the secretary of state and**
38 **with the recorder of deeds and the county clerk of the county or counties in which the**
39 **district is located. If an agreement is developed between a city and a sewer district**
40 **pursuant to this subsection, subsections 2 to 8 of this section shall not apply to such**
41 **agreement.**

42 2. In the event that the board of trustees of such district and the city cannot reach such
43 an agreement, an application may be made by the board or the city to the circuit court requesting
44 that three commissioners develop such an agreement. Such application shall include the name
45 of one commissioner appointed by the applying party. The second party shall appoint one
46 commissioner within thirty days of the service of the application upon the second party. If the
47 second party fails to appoint a commissioner within such time period, the circuit court shall
48 appoint a commissioner on behalf of the second party. Such two named commissioners may
49 agree to appoint a third disinterested commissioner within thirty days after the appointment of
50 the second commissioner. In the event that the two named commissioners cannot agree on or
51 fail to appoint the third disinterested commissioner within thirty days after the appointment of
52 the second commissioner, the circuit court shall appoint the third disinterested commissioner.

53 3. Upon the filing of such application and the appointment of three such commissioners,
54 the circuit court shall set a time for one or more hearings and shall order a public notice
55 including the nature of the application, the annexed area affected, the names of the

56 commissioners, and the time and place of such hearings, to be published for three weeks
57 consecutively in a newspaper published in the county in which the application is pending, the last
58 publication to be not more than seven days before the date set for the first hearing.

59 4. The commissioners shall develop an agreement between the district and the city to
60 provide sewer service to the annexed territory. In developing the agreement, the commissioners
61 shall consider information presented to them at hearings and any other information at their
62 disposal including, but not limited to:

63 (1) The estimated future loss of revenue and costs for the sewer district related to the
64 agreement;

65 (2) The amount of indebtedness of the sewer district within the annexed territory;

66 (3) Any contractual obligations of the sewer district within the annexed area; and

67 (4) The effect of the agreement on the sewer rates of the district.

68

69 The agreement shall also include a recommendation for the apportionment of costs incurred
70 pursuant to subsections 2 to 8 of this section, including reasonable compensation for the
71 commissioners, between the city and the district.

72 5. If the circuit court finds that the agreement provides for necessary sewer service in the
73 annexed territory, then such agreement shall be fully effective upon approval by the circuit court.
74 The circuit court shall also review the recommended apportionment of court costs incurred and
75 the reasonable compensation for the commissioners and affirm or modify such recommendations.

76 6. The order and judgment of the circuit court shall be subject to appeal as provided by
77 law.

78 7. If the circuit court approves a detachment as part of the territorial agreement, it shall
79 make its order and judgment detaching the territory described in the application from the
80 remainder of the district and stating the boundary lines of the district after such detachment.

81 8. At such time that the circuit court's order and judgment becomes final, the clerk of the
82 circuit court shall file certified copies of such order and judgment with the secretary of state and
83 with the recorder of deeds and the county clerk of the county or counties in which the district is
84 located.

85 9. The proportion of the sum of all outstanding bonds and debt, with interest thereon,
86 that is required to be paid to the sewer district pursuant to this section, shall be the same as the
87 proportion of the assessed valuation of the real and tangible personal property within the area
88 sought to be detached bears to the assessed valuation of all of the real and tangible personal
89 property within the entire area of the sewer district.

204.571. An authorized representative, not a member of the common sewer district's
2 advisory board under section 204.310, from each political subdivision which lies partially within

3 a sewer subdistrict formed pursuant to sections 204.565 to 204.573 and which operates or is
4 served by a sewage collection system, together with the representatives of all other such political
5 subdivisions and of each county having territory within the subdistrict, shall constitute an
6 advisory board for the subdistrict. The advisory board shall organize by electing one of its
7 members as chairman, one as vice chairman, and one as a representative to the common sewer
8 district's advisory board formed pursuant to section 204.310, **however, if the subdistrict**
9 **advisory board consists of less than three members, then one subdistrict advisory board**
10 **member may serve in more than one such capacity.** The board of trustees of the common
11 sewer district shall keep the subdistrict advisory board informed, either directly or through the
12 district advisory board, as to all phases of the planning and operations of the subdistrict, and the
13 subdistrict advisory board shall make such recommendations to the common sewer district
14 advisory board as the subdistrict board deems advisable with regard to the construction and
15 operation of sewers and facilities in the subdistrict. **If a county or political subdivision with**
16 **the right of appointment under this section fails to appoint any subdistrict advisory board**
17 **member within sixty days after receiving a written request from the common sewer**
18 **district, then the board of trustees of the common sewer district may make such**
19 **appointment.**

250.233. Any city, town [or] , village, **or sewer district** operating a sewerage system or
2 waterworks may establish, make and collect charges for sewerage services, including tap-on fees.
3 The charges may be set as a flat fee or based upon the amount of water supplied to the premises
4 and shall be in addition to those charges which may be levied and collected for maintenance,
5 repair and administration, including debt service expenses. Any private water company or public
6 water supply district supplying water to the premises located within said city, town [or] , village,
7 **or sewer district** shall, at reasonable charge upon reasonable request, make available to such
8 city, town [or] , village, **or sewer district** its records and books so that such city, town [or] ,
9 village, **or sewer district** may obtain therefrom such data as may be necessary to calculate the
10 charges for sewer service. Prior to establishing any such sewer charges, public hearings shall be
11 held thereon and at least thirty days' notice shall be given thereof.

386.210. 1. The commission may confer in person, or by correspondence, by attending
2 conventions, or in any other way, with the members of the public, any public utility or similar
3 commission of this and other states and the United States of America, or any official, agency or
4 instrumentality thereof, on any matter relating to the performance of its duties.

5 2. Such communications may address any issue that at the time of such communication
6 is not the subject of a case that has been filed with the commission.

7 3. Such communications may also address substantive or procedural matters that are the
8 subject of a pending filing or case in which no evidentiary hearing has been scheduled, provided
9 that the communication:

10 (1) Is made at a public agenda meeting of the commission where such matter has been
11 posted in advance as an item for discussion or decision;

12 (2) Is made at a forum where representatives of the public utility affected thereby, the
13 office of public counsel, and any other party to the case are present; or

14 (3) If made outside such agenda meeting or forum, is subsequently disclosed to the
15 public utility, the office of the public counsel, and any other party to the case in accordance with
16 the following procedure:

17 (a) If the communication is written, the person or party making the communication shall
18 no later than the next business day following the communication file a copy of the written
19 communication in the official case file of the pending filing or case and serve it upon all parties
20 of record;

21 (b) If the communication is oral, the party making the oral communication shall no later
22 than the next business day following the communication file a memorandum in the official case
23 file of the pending case disclosing the communication and serve such memorandum on all parties
24 of record. The memorandum must contain a summary of the substance of the communication
25 and not merely a listing of the subjects covered.

26 4. Nothing in this section or any other provision of law shall be construed as imposing
27 any limitation on the free exchange of ideas, views, and information between any person and the
28 commission or any commissioner, provided that such communications relate to matters of
29 general regulatory policy and do not address the merits of the specific facts, evidence, claims,
30 or positions presented or taken in a pending case unless such communications comply with the
31 provisions of subsection 3 of this section.

32 5. The commission and any commissioner may also advise any member of the general
33 assembly or other governmental official of the issues or factual allegations that are the subject
34 of a pending case, provided that the commission or commissioner does not express an opinion
35 as to the merits of such issues or allegations, and may discuss in a public agenda meeting with
36 parties to a case in which an evidentiary hearing has been scheduled, any procedural matter in
37 such case or any matter relating to a unanimous stipulation or agreement resolving all of the
38 issues in such case.

39 6. The commission may enter into and establish fair and equitable cooperative
40 agreements or contracts with or act as an agent or licensee for the United States of America, or
41 any official, agency or instrumentality thereof, or any public utility or similar commission of
42 other states, that are proper, expedient, fair and equitable and in the interest of the state of

43 Missouri and the citizens thereof, for the purpose of carrying out its duties pursuant to section
44 386.250 as limited and supplemented by section 386.030 and to that end the commission may
45 receive and disburse any contributions, grants or other financial assistance as a result of or
46 pursuant to such agreements or contracts. Any contributions, grants or other financial assistance
47 so received shall be deposited in the public service commission utility fund or the state highway
48 commission fund depending upon the purposes for which they are received.

49 7. The commission may make joint investigations, hold joint hearings within or without
50 the state, and issue joint or concurrent orders in conjunction or concurrence with any railroad,
51 public utility or similar commission, of other states or the United States of America, or any
52 official, agency or any instrumentality thereof, except that in the holding of such investigations
53 or hearings, or in the making of such orders, the commission shall function under agreements or
54 contracts between states or under the concurrent power of states to regulate interstate commerce,
55 or as an agent of the United States of America, or any official, agency or instrumentality thereof,
56 or otherwise.

57 **8. The commission may appear in any proceeding at the Federal Energy Regulatory**
58 **Commission, the Nuclear Regulatory Commission, the Federal Communications**
59 **Commission, or any other federal administrative agency that has jurisdiction over a utility**
60 **that is regulated by the commission or whose decisions may affect utility rates or service**
61 **in Missouri. The commission may also file or otherwise participate in appeals from such**
62 **federal administrative agencies. This subsection applies to all proceedings pending at the**
63 **time of, or commenced after, the effective date of this section.**

386.715. 1. The public counsel shall, prior to the beginning of each fiscal year,
2 make available to the commission an estimate of the expenses to be incurred by the public
3 counsel during such fiscal year, reasonably attributable to his or her responsibilities with
4 respect to public utilities under sections 386.700 and 386.710 and shall also separately
5 estimate the amount of such expenses directly attributable to such responsibilities with
6 respect to each of the following groups of public utilities: electrical corporations, gas
7 corporations, water corporations, heating companies, telephone corporations, telegraph
8 corporations, sewer corporations, and any other public utility as defined in section 386.020,
9 as well as the amount of such expenses not directly attributable to any such group.

10 2. The public counsel shall allocate to each such group of public utilities the
11 estimated expenses directly attributable to his or her responsibilities under sections 386.700
12 to 386.710 with respect to such group and an amount equal to such proportion of the
13 estimated expenses not directly attributable to any group as the gross intrastate operating
14 revenues of such group during the three preceding calendar years bears to the total gross
15 intrastate operating revenues of all public utilities subject to the jurisdiction of the

16 commission during such calendar years. The amount so allocated to telephone
17 corporations shall not exceed ten percent of the total estimated expenses directly
18 attributable to the public counsel's responsibilities under sections 386.700 to 386.710. The
19 commission shall then assess, on behalf of the public counsel, the amount so allocated to
20 each group of public utilities, subject to reduction as provided in this section, to the public
21 utilities in such group in proportion to its respective gross intrastate operating revenues
22 during the preceding calendar year. The total amount so assessed to all such public
23 utilities shall not exceed two hundredths of one percent of the total gross intrastate
24 operating revenues of all utilities subject to the jurisdiction of the commission. Nothing in
25 this section shall authorize the commission to determine how the public counsel allocates
26 the estimated expenses directly attributable to his or her responsibilities under sections
27 386.700 and 386.710 with respect to public utilities described in subsection 1 of this section
28 or how the assessment imposed under this section is spent by the public counsel.

29 3. On behalf of the public counsel, the commission shall render a statement of such
30 assessment to each such public utility on or before July first and the amount so assessed
31 to each such public utility shall be paid by it to the director of revenue in full on or before
32 July fifteenth next following the rendition of such statement, except that any such public
33 utility may at its election pay such assessment in four equal installments not later than the
34 following dates next following the rendition of such statement, to wit: July fifteenth,
35 October fifteenth, January fifteenth and April fifteenth. The director of revenue shall
36 remit such payments to the state treasurer.

37 4. The state treasurer shall credit such payments to a special fund, which is hereby
38 created, to be known as "The Public Counsel Fund", which fund, or its successor fund
39 created under section 33.571, shall be devoted solely to the payment of expenditures
40 actually incurred by the public counsel and attributable to his or her responsibilities under
41 sections 386.700 to 386.710 with respect to such public utilities subject to the jurisdiction
42 of the commission. Any amount remaining in such special fund or its successor fund at the
43 end of any fiscal year shall not revert to the general revenue fund, but shall be applicable
44 by appropriation of the general assembly to the payment of such expenditures of the public
45 counsel in the succeeding fiscal year and shall be applied by the public counsel to the
46 reduction of the amount to be assessed to such public utilities in such succeeding fiscal
47 year, such reduction to be allocated to each group of public utilities in proportion to the
48 respective gross intrastate operating revenues of the respective groups during the
49 preceding calendar year.

50 5. In order to enable the public counsel to make the allocations and assessments
51 provided for in this section, each public utility subject to the jurisdiction of the commission

52 **shall file with the commission on or before March thirty-first of each year, a statement**
53 **under oath showing its gross intrastate operating revenues for the preceding calendar year,**
54 **and if any public utility shall fail to file such statement within the time established in this**
55 **subsection, the commission shall estimate such revenue. Such estimate shall be binding on**
56 **such public utility for the purpose of this section.**

393.150. 1. Whenever there shall be filed with the commission by any gas corporation,
2 electrical corporation, water corporation or sewer corporation any schedule stating a new rate or
3 charge, or any new form of contract or agreement, or any new rule, regulation or practice relating
4 to any rate, charge or service or to any general privilege or facility, the commission shall have,
5 and it is hereby given, authority, either upon complaint or upon its own initiative without
6 complaint, at once, and if it so orders without answer or other formal pleading by the interested
7 gas corporation, electrical corporation, water corporation or sewer corporation, but upon
8 reasonable notice, to enter upon a hearing concerning the propriety of such rate, charge, form of
9 contract or agreement, rule, regulation or practice, and pending such hearing and the decision
10 thereon, the commission upon filing with such schedule, and delivering to the gas corporation,
11 electrical corporation, water corporation or sewer corporation affected thereby, a statement in
12 writing of its reasons for such suspension, may suspend the operation of such schedule and defer
13 the use of such rate, charge, form of contract or agreement, rule, regulation or practice, but not
14 for a longer period than [one hundred and twenty] **ninety** days beyond the time when such rate,
15 charge, form of contract or agreement, rule, regulation or practice would otherwise go into effect;
16 and after full hearing, whether completed before or after the rate, charge, form of contract or
17 agreement, rule, regulation or practice goes into effect, the commission may make such order in
18 reference to such rate, charge, form of contract or agreement, rule, regulation or practice as
19 would be proper in a proceeding initiated after the rate, charge, form of contract or agreement,
20 rule, regulation or practice had become effective.

21 2. If any such hearing cannot be concluded within the period of suspension, as above
22 stated, the commission may, in its discretion, extend the time of suspension for a further period
23 not exceeding [six] **two** months. At any hearing involving a rate sought to be increased, the
24 burden of proof to show that the increased rate or proposed increased rate is just and reasonable
25 shall be upon the gas corporation, electrical corporation, water corporation or sewer corporation,
26 and the commission shall give to the hearing and decision of such questions preference over all
27 other questions pending before it and decide the same as speedily as possible. **As the party with**
28 **the burden of proof, the gas corporation, electrical corporation, water corporation, or**
29 **sewer corporation shall submit written direct testimony in support of its filing at the time**
30 **the filing is made. Those parties not bearing the burden of proof shall have the**
31 **opportunity to submit written rebuttal testimony relating to the filing no later than the**

32 date that leaves at least sixty percent of the period of suspension remaining, and such
33 corporation shall have the opportunity to submit written surrebuttal testimony no later
34 than the date that leaves at least forty percent of the period of suspension remaining. The
35 commission shall issue its order deciding the matter no later than twenty days prior to the
36 end of the suspension period under subsection 1 of this section, or the further suspension
37 period under this subsection, whichever applies, and shall make its order reflecting its
38 decision effective ten days after its issuance. The new rates approved by the commission's
39 order shall be implemented by the corporation's filing of new schedules at least five
40 business days prior to the end of the suspension period under subsection 1 of this section,
41 or the further suspension period under this subsection, whichever applies. Unless such
42 schedules are rejected by the commission for failure to comply with the order, the
43 schedules shall take effect automatically without the need for further action by or order
44 of the commission, and notwithstanding the pendency of any application for rehearing, no
45 later than the first day following the end of the applicable suspension period. Where any
46 filed schedules are rejected by the commission for failure to comply with the commission's
47 order, the gas corporation, electrical corporation, water corporation, or sewer corporation
48 shall be permitted to file replacement schedules that are in compliance with the
49 commission's order with a proposed effective date not less than five business days after the
50 date of filing. Unless such schedules are rejected by the commission for failure to comply
51 with the order, the schedules shall take effect automatically on the proposed effective date
52 without the need for further action by or order of the commission notwithstanding the
53 pendency of any application for rehearing and regardless of whether the proposed effective
54 date is later than the end of the suspension period.

55 3. Where under subsection 2 of this section the commission further suspends any
56 schedule that seeks to state a new rate, the commission shall determine the new rate
57 utilizing certain information updated as of sixty days prior to the end of the period of
58 suspension. Such updated information shall include all additions to plant-in-service, all
59 significant changes to expenses and revenues, and such other changes as are necessary to
60 maintain a proper matching of revenues, expenses, and rate base.

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

2 (1) "Large water public utility", a public utility that regularly provides water
3 service or sewer service to more than eight thousand customer connections and that
4 provides safe and adequate service but shall not include a sewer district established under
5 Section 30(a), Article VI of the Missouri Constitution, sewer districts established under the
6 provisions of chapter 204, 249, or 250, public water supply districts established under the
7 provisions of chapter 247, or municipalities that own water or sewer systems;

8 (2) "Small water utility", a public utility that regularly provides water service or
9 sewer service to eight thousand or fewer customer connections; a water district established
10 under the provisions of chapter 247 that regularly provides water or sewer service to eight
11 thousand or fewer customer connections; a sewer district established under the provisions
12 of chapter 204, 249, or 250 that regularly provides sewer service to eight thousand or fewer
13 customer connections; or a water system or sewer system owned by a municipality that
14 regularly provides water service or sewer service to eight thousand or fewer customer
15 connections; and all other entities that regularly provide water service or sewer service to
16 eight thousand or fewer customer connections.

17 2. Whenever a small water utility determines to sell or otherwise dispose of its
18 water system or sewer system to a large water public utility, the small water utility may by
19 ordinance, resolution, or appropriate board action authorize the appraisal of the water
20 system or sewer system and designate the time that the appraisal is due. Any sale of a
21 water system to a large water public utility shall include resolution of any compliance
22 issues and obtaining a new permit. Any sale of a sewer system to a large water public
23 utility shall include transfer of any state permit authorizing the system held by the small
24 water utility to the large water public utility. After the sale, the acquiring large water
25 public utility shall continue providing service to all customers that were served by the small
26 water utility at the time of the sale.

27 3. (1) The appraisal shall be performed by three appraisers. One appraiser shall
28 be appointed by the small water utility, one appraiser shall be appointed by the large water
29 public utility, and the third appraiser shall be appointed by the two appraisers so
30 appointed. Each of the appraisers shall be a disinterested person who is certified general
31 appraisers under chapter 339.

32 (2) The appraisers shall:

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

36 (b) Return their appraisal, in writing, to the small water utility and large water
37 public utility within the time fixed by the ordinance or resolution authorizing the
38 appraisal.

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

41 4. After the return of the appraisal by the appraisers, either the small water utility
42 or the large water public utility may decline to proceed with the sale or disposition of the
43 water system or sewer system. If the small water utility is a municipality required to

44 submit the proposed sale or disposition to public vote, the vote shall be conducted as
45 required by law.

46 5. (1) The lesser of the purchase price or the appraised value, together with the
47 reasonable and prudent transaction, closing, and transition costs incurred by the large
48 water public utility, shall constitute the ratemaking rate base for the small water utility as
49 acquired by the acquiring large water public utility; provided, however, that if the small
50 water utility is a public utility subject to chapter 386 and the small water utility completed
51 a rate case prior to the acquisition, the public service commission may select as the
52 ratemaking rate base for the small water utility as acquired by the acquiring large water
53 public utility a ratemaking rate base in between:

54 (a) The lesser of the purchase price and the appraised value, together with the
55 reasonable and prudent transaction, closing, and transition costs incurred by the large
56 water public utility unless such transaction, closing, and transition costs are elsewhere
57 recoverable in rates; and

58 (b) The ratemaking rate base of the small water utility as ordered by the public
59 service commission in the small water utility's last previous rate case as adjusted by
60 improvements and depreciation reserve since the previous rate case together with the
61 transaction, closing, and transition costs incurred by the large water public utility unless
62 such transaction, closing, and transition costs are elsewhere recoverable in rates. If the
63 small water utility and large water public utility proceed with the sale, any past due fees
64 due to the state from the small water utility or its customers under chapter 640 or 644 shall
65 be paid prior to the sale or the liability for such past due fees becomes the responsibility
66 of the large water public utility. Such fees shall not be included in the large water public
67 utility's rate base.

68 (2) The public service commission shall issue its decision establishing the
69 ratemaking rate base of the small water utility in its order approving the acquisition.

70 6. This section is intended for the specific and unique purpose of facilitating the
71 acquisition of small water utilities by large water public utilities and shall be exclusively
72 applied to large water public utilities seeking to acquire small water utilities. This section
73 is not intended to apply beyond its specific purpose and shall not be construed in any
74 manner to apply to electric corporations, natural gas corporations, or any other utility
75 regulated by the public service commission.

393.1000. As used in sections 393.1000 to 393.1006, the following terms mean:

2 (1) "Appropriate pretax revenues", the revenues necessary to produce net operating
3 income equal to:

4 (a) The water corporation's weighted cost of capital multiplied by the net original cost
5 of eligible infrastructure system replacements, including recognition of accumulated deferred
6 income taxes and accumulated depreciation associated with eligible infrastructure system
7 replacements which are included in a currently effective ISRS; and

8 (b) Recover state, federal, and local income or excise taxes applicable to such income;
9 and

10 (c) Recover all other ISRS costs;

11 (2) "Commission", the Missouri public service commission;

12 (3) "Eligible infrastructure system replacements"[,] :

13 (a) Water utility plant projects that:

14 [(a)] a. Replace or extend the useful life of existing infrastructure;

15 [(b)] b. Are in service and used and useful;

16 [(c)] c. Do not increase revenues by directly connecting the infrastructure replacement
17 to new customers; and

18 [(d)] d. Were not included in the water corporation's rate base in its most recent general
19 rate case; and

20 (b) Energy efficiency projects that:

21 a. Are in service and used and useful;

22 b. Do not increase revenues by directly connecting the infrastructure replacements
23 to new customers; and

24 c. Were not included in the water corporation's rate base in its most recent general
25 rate case;

26 (4) "Energy efficiency", measures that reduce the amount of energy required to
27 achieve a given end result;

28 (5) "ISRS", infrastructure system replacement surcharge;

29 [(5)] (6) "ISRS costs", depreciation expenses and property taxes that will be due within
30 twelve months of the ISRS filing;

31 [(6)] (7) "ISRS revenues", revenues produced through an ISRS, exclusive of revenues
32 from all other rates and charges;

33 [(7)] (8) "Water corporation", every corporation, company, association, joint stock
34 company or association, partnership, and person, their lessees, trustees, or receivers appointed
35 by any court whatsoever, owning, operating, controlling, or managing any plant or property, dam
36 or water supply, canal, or power station, distributing or selling for distribution, or selling or
37 supplying for gain any water [to more than ten thousand customers];

38 [(8)] (9) "Water utility plant projects" may consist only of the following:

39 (a) Mains, [and associated] valves [and] , hydrants, **service lines, and meters** installed
40 as replacements for existing facilities that have worn out or are in deteriorated condition **or**
41 **replaced as part of a commission order;**

42 (b) Main cleaning and relining projects; [and]

43 (c) Facilities relocations required due to construction or improvement of a highway,
44 road, street, public way, or other public work by or on behalf of the United States, this state, a
45 political subdivision of this state, or another entity having the power of eminent domain provided
46 that the costs related to such projects have not been reimbursed to the water corporation; **and**

47 **(d) Energy efficiency projects.**

393.1003. 1. Notwithstanding any provisions of chapter 386, RSMo, and this chapter
2 to the contrary, as of August 28, [2003] **2011**, a water corporation [providing water service in
3 a county with a charter form of government and with more than one million inhabitants] may file
4 a petition and proposed rate schedules with the commission to establish or change ISRS rate
5 schedules that will allow for the adjustment of the water corporation's rates and charges to
6 provide for the recovery of costs for eligible infrastructure system replacements [made in such
7 county with a charter form of government and with more than one million inhabitants;] ,
8 provided that an ISRS, on an annualized basis, must produce ISRS revenues of at least [one
9 million] **ten thousand** dollars but not in excess of ten percent of the water corporation's base
10 revenue level approved by the commission in the water corporation's most recent general rate
11 proceeding. An ISRS and any future changes thereto shall be calculated and implemented in
12 accordance with the provisions of sections 393.1000 to 393.1006. ISRS revenues shall be
13 subject to refund based upon a finding and order of the commission, to the extent provided in
14 subsections 5 and 8 of section 393.1006.

15 2. The commission shall not approve an ISRS for a water corporation [in a county with
16 a charter form of government and with more than one million inhabitants] that has not had a
17 general rate proceeding decided or dismissed by issuance of a commission order within the past
18 three years, unless the water corporation has filed for or is the subject of a new general rate
19 proceeding.

20 3. In no event shall a water corporation collect an ISRS for a period exceeding three
21 years unless the water corporation has filed for or is the subject of a new general rate proceeding;
22 provided that the ISRS may be collected until the effective date of new rate schedules established
23 as a result of the new general rate proceeding, or until the subject general rate proceeding is
24 otherwise decided or dismissed by issuance of a commission order without new rates being
25 established.

644.036. 1. No standard, rule or regulation or any amendment or repeal thereof shall be
2 adopted except after a public hearing to be held after thirty days' prior notice by advertisement

3 of the date, time and place of the hearing and opportunity given to the public to be heard. Notice
4 of the hearings and copies of the proposed standard, rule or regulation or any amendment or
5 repeal thereof shall also be given by regular mail, at least thirty days prior to the scheduled date
6 of the hearing, to any person who has registered with the director for the purpose of receiving
7 notice of such public hearings in accordance with the procedures prescribed by the commission
8 at least forty-five days prior to the scheduled date of the hearing. However, this provision shall
9 not preclude necessary changes during this thirty-day period.

10 2. At the hearing, opportunity to be heard by the commission with respect to the subject
11 thereof shall be afforded any interested person upon written request to the commission, addressed
12 to the director, not later than seven days prior to the hearing, and may be afforded to other
13 persons if convenient. In addition, any interested persons, whether or not heard, may submit,
14 within seven days subsequent to the hearings, a written statement of their views. The
15 commission may solicit the views, in writing, of persons who may be affected by, or interested
16 in, proposed rules and regulations, or standards. Any person heard or represented at the hearing
17 or making written request for notice shall be given written notice of the action of the commission
18 with respect to the subject thereof.

19 3. Any standard, rule or regulation or amendment or repeal thereof shall not be deemed
20 adopted or in force and effect until it has been approved in writing by at least four members of
21 the commission. A standard, rule or regulation or an amendment or repeal thereof shall not
22 become effective until a certified copy thereof has been filed with the secretary of state as
23 provided in chapter 536, RSMo.

24 4. Unless prohibited by any federal water pollution control act, any standard, rule or
25 regulation or any amendment or repeal thereof which is adopted by the commission may differ
26 in its terms and provisions as between particular types and conditions of water quality standards
27 or of water contaminants, as between particular classes of water contaminant sources, and as
28 between particular waters of the state.

29 5. Any listing required by Section 303(d) of the federal Clean Water Act, as amended,
30 33 U.S.C. 1251, et seq., to be sent to the U.S. Environmental Protection Agency for its approval
31 that will result in any waters of the state being classified as impaired shall be adopted by the
32 commission after a public hearing, or series of hearings, held in accordance with the following
33 procedures. The department of natural resources shall publish in at least six regional
34 newspapers, in advance, a notice by advertisement the availability of a proposed list of impaired
35 waters of the state and such notice shall include at least ninety days' advance notice of the date,
36 time, and place of the public hearing and opportunity given to the public to be heard. Notice of
37 the hearings and copies of the proposed list of impaired waters also shall be posted on the
38 department of natural resources' website and given by regular mail, at least ninety days prior to

39 the scheduled date of the hearing, to any person who has registered with the director for the
40 purpose of receiving notice of such public hearings. The proposed list of impaired waters shall
41 identify the water segment, the uses to be made of such waters, the uses impaired, identify the
42 pollutants causing or expected to cause violations of the applicable water quality standards, and
43 provide a summary of the data relied upon to make the preliminary determination.
44 Contemporaneous with the publication of the notice of public hearing, the department shall make
45 available on its website all data and information it relied upon to prepare the proposed list of
46 impaired waters, including a narrative explanation of how the department determined the water
47 segment was impaired. At any time after the public notice and until seven days after the public
48 hearing, the department shall accept written comments on the proposed list of impaired waters.
49 After the public hearing and after all written comments have been submitted, the department
50 shall prepare a written response to all comments and a revised list of impaired waters. The
51 commission shall adopt a list of impaired waters in a public meeting during which the public
52 shall be afforded an opportunity to respond to the department's written response to comments and
53 revised list of impaired waters.

54
55 Notice of the meeting shall include the date, time, and place of the public meeting and shall
56 provide notice that the commission will give interested persons the opportunity to respond to the
57 department's revised list of impaired waters and written responses to comments. At its
58 discretion, the commission may extend public comment periods or hold additional public
59 hearings on the proposed and revised lists of impaired waters. The commission shall not vote
60 to add to the list of impaired waters any waters not recommended by the department in the
61 proposed or revised lists of impaired waters without granting the public at least thirty additional
62 days to comment on the proposed addition. The list of impaired waters adopted by the
63 commission shall not be deemed to be a rule as defined by section 536.010, RSMo. The listing
64 of any water segment on the list of impaired waters adopted by the commission shall be subject
65 to judicial review by any adversely affected party under section 536.150, RSMo. The provisions
66 in this subsection shall expire on August 28, [2010] **2012**.

644.054. 1. Fees imposed in sections 644.052 and 644.053 shall, except for those fees
2 imposed pursuant to subsection 4 and subsections 6 to 13 of section 644.052, become effective
3 October 1, 1990, and shall expire December 31, [2010] **2012**. Fees imposed pursuant to
4 subsection 4 and subsections 6 to 13 of section 644.052 shall become effective August 28, 2000,
5 and shall expire on December 31, [2010] **2012**. The clean water commission shall promulgate
6 rules and regulations on the procedures for billing and collection. All sums received through the
7 payment of fees shall be placed in the state treasury and credited to an appropriate subaccount
8 of the natural resources protection fund created in section 640.220, RSMo. Moneys in the

9 subaccount shall be expended, upon appropriation, solely for the administration of sections
10 644.006 to 644.141. Fees collected pursuant to subsection 10 of section 644.052 by a city, a
11 public sewer district, a public water district or other publicly owned treatment works are state
12 fees. Five percent of the fee revenue collected shall be retained by the city, public sewer district,
13 public water district or other publicly owned treatment works as reimbursement of billing and
14 collection expenses.

15 2. The commission may grant a variance pursuant to section 644.061 to reduce fees
16 collected pursuant to section 644.052 for facilities that adopt systems or technologies that reduce
17 the discharge of water contaminants substantially below the levels required by commission rules.

18 3. Fees imposed in subsections 2 to 6 of section 644.052 shall be due on the date of
19 application and on each anniversary date of permit issuance thereafter until the permit is
20 terminated.

21 [4. There shall be convened a joint committee appointed by the president pro tem of the
22 senate and the speaker of the house of representatives to consider proposals for restructuring the
23 fees imposed in sections 644.052 and 644.053. The committee shall review storm water
24 programs, the state's implementation of the federal clean water program, storm water, and related
25 state clean water responsibilities, and evaluate the costs to the state for maintaining the programs.
26 The committee shall prepare and submit a report, including recommendations on funding the
27 state clean water program, and storm water programs, to the governor, the house of
28 representatives, and the senate no later than December 31, 2008.]

660.122. Funds appropriated under the authority of sections 660.100 to 660.136 may be
2 used to pay the expenses of reconnecting or maintaining service to **eligible** households [that have
3 had their primary or secondary heating or cooling source disconnected or service discontinued
4 because of their failure to pay their bill]. **Eligible households which have paid or attempted**
5 **to pay their utility bills shall not be precluded from receiving such assistance.** Any qualified
6 household or other household which has as its head a person who is elderly or disabled, as
7 defined in section 660.100, shall be eligible for assistance under this section if the income for
8 the household is no more than one hundred fifty percent of the current federal poverty level or
9 sixty percent of the state median income and if moneys have been appropriated by the general
10 assembly to the utilicare stabilization fund established pursuant to section 660.136. Payments
11 under this section shall be made directly to the primary or secondary heating or cooling source
12 supplier. Any primary or secondary heating or cooling source supplier subject to the supervision
13 and regulation of the public service commission shall, at any time during the period of the cold
14 weather rule specified in the cold weather rule as established and as amended by the public
15 service commission, reconnect and provide services to each household eligible for assistance
16 under this section in compliance with the terms of such cold weather rule, **provided that such**

17 **suppliers shall permit customers who have not yet been disconnected and who incurred an**
18 **arrearage during the cold weather rule period to retain service by paying during each of**
19 **the three months following the cold weather rule period an amount equal to one-third of**
20 **the customer's arrearage, plus the customer's current bill.** All home energy suppliers
21 receiving funds under this section shall provide service to eligible households consistent with
22 their contractual agreements with the department of social services **and sections 660.100 to**
23 **660.136.**

Section B. Because of the immediate need for public service commissioners to be able
2 to appear at federal hearings and intervene in federal cases, the repeal and reenactment of section
3 386.210 of section A of this act is deemed necessary for the immediate preservation of the public
4 health, welfare, peace and safety, and is hereby declared to be an emergency act within the
5 meaning of the constitution, and the repeal and reenactment of section 386.210 of section A of
6 this act shall be in full force and effect upon its passage and approval.

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