

HCS SB 48 -- UTILITIES

SPONSOR: Wright-Jones (Pollock)

COMMITTEE ACTION: Voted "do pass" by the Committee on Utilities by a vote of 21 to 0.

This substitute changes the laws regarding utilities. In its main provisions, the substitute:

(1) Allows each board member of a public water supply district to receive a fee of up to \$100 for attending each regularly or specially called board meeting. A member can receive payment for up to two meetings per month except those in a first classification county who can receive payment for up to four meetings per month. No member can be paid for attending more than one board meeting per week. The chairperson of a board may receive an additional \$50 for attending each regularly or specially called board meeting but cannot receive the additional fee for attending more than two meetings in a month. A member will be reimbursed for any actual expenditures in the performance of his or her duties on behalf of the district. The secretary and the treasurer, if members of the board, may receive additional compensation as deemed reasonable and necessary by the board for the performance of their duties. The additional compensation cannot exceed \$1,000 per year. The circuit court having jurisdiction over the district is authorized to suspend or remove any member of the board for good cause upon a petition, notice, and hearing. A board member cannot receive any attendance fees or additional compensation until he or she has completed a course of training acceptable by the board regarding the responsibilities of the board and its members concerning specified areas regarding the water supply district and the Open Meetings and Records Law, commonly known as the Sunshine Law. A board member is prohibited from receiving any attendance fees or additional compensation if he or she fails to connect an eligible customer who has made a proper request for water service, has gone without water service, or has not been connected to water service within eight months of the request. Once service is restored or connected, the board member may again receive the attendance fee for the time periods after the re-connection or initial connection of service is made and may receive additional compensation (Section 247.060, RSMo);

(2) Removes the certified mail requirement for the notice regarding the nonpayment of sewer service charges. Currently, any municipality, sewer corporation, or sewer district that contracts with a water company to terminate water service to customer premises for nonpayment of sewer bills is required to send the notice of termination of water service by certified mail

(Sections 250.236 and 393.015);

(3) Changes the appellate procedures for an issue initially decided by the Missouri Public Service Commission by:

(a) Requiring the commission in any proceeding resulting in the establishment of new rates for a public utility to cause to be prepared and approve, after allowing the parties a reasonable opportunity to provide written input, a detailed reconciliation containing the dollar value and rate or charge impact of each contested issue decided by the commission;

(b) Allowing a notice of a commission order affecting a person or corporation to be provided by electronic service in addition to the current options of certified mail or prepaid mail to the individuals or, in the case of a corporation, to any officer or agent upon whom a summon may be served in accordance with provisions of the code of civil procedure;

(c) Specifying that an appellant may file a notice of appeal with the commission and the appropriate appellate court within 30 days after a request for a rehearing is denied or a final decision on rehearing is made for a commission order or decision issued on or after the effective date of these provisions. Currently, the appellant may apply to the appropriate circuit court within 30 days after the rehearing is denied or the final decision on the rehearing is made;

(d) Requiring the commission to certify its record in the case to the court of appeals within 30 days of the filing of the notice of appeal;

(e) Specifying that the commission and any party to a commission action or proceeding must have the right to intervene and submit briefs in the review proceedings to the court of appeals in accordance with the briefing schedule established by the court;

(f) Requiring the court of appeals, upon the submission of a case, to render its opinion affirming or setting aside in whole or in part the order or decision of the commission under review;

(g) Allowing an appellate court to stay or suspend the operation of a commission order or decision that does not involve the establishment of new rates and charges for a public utility if it determines that great or irreparable damage would otherwise result to the appellant;

(h) Allowing an appellate court to require the commission to provide temporary rate adjustments in a case where the court determines that a commission order or decision was unlawful or

unreasonably decided. The requirements for calculating a temporary rate adjustment based on the type of deviation from lawful or reasonable rates are specified in the substitute;

(i) Specifying that no action affecting the public utility's collection of rates and charges can be taken in a case where the appellate court cannot make a determination because the commission failed to include adequate findings of fact to support the commission's decision and requiring the commission to provide adequate findings of fact to support its decision or order within 90 days of receiving a court-issued mandate; and

(j) Allowing the commission and any party that is aggrieved by the opinion of an appellate court to seek a rehearing or transfer to the Missouri Supreme Court under rules established by the court and removing the provision which requires a \$500 bond be filed within 10 days after a judgment has been entered in a circuit court in order to file an appeal with the Missouri Supreme Court or a court of appeals (Sections 386.420, 386.490, and 386.510 - 386.540);

(4) Prohibits any public utility regulated under Chapter 393 from requiring a deposit or guarantee as a condition of continued residential service to any existing customer who has been delinquent in paying his or her utility bill at least five times in 12 consecutive months if certain specified conditions exist. These provisions do not apply to a customer who owes more than \$300 or who has a previously established payment plan with the utility (Section 393.152);

(5) Revises the rate adjustment rules for natural gas. Currently, rate adjustments in the purchase price of natural gas that are approved by the commission are exempt from certain provisions relating to business license taxation. The substitute adds a qualifying provision that any purchased gas adjustment rate must include the gas cost portion of net write-offs incurred by the gas company in providing service to customers. Any net write-offs may only be recovered once a year through purchased gas adjustment rates, and an annual true-up of the gas cost portion of the net write-offs is required. The commission must annually review the gas company's debt collection efforts to ensure that it is prudently pursuing collection of the amounts owed by its customers (Section 393.275);

(6) Revises the definition for "eligible infrastructure system replacements" to include energy efficiency projects that are in service, used, and useful; do not increase revenues by connecting the infrastructure replacements to new customers; and were not included in the water corporation's rate base in its most recent rate case and defines "energy efficiency" as measures that reduce

the amount of energy required to achieve a given end result. It adds service lines and meters that have worn out, are in a deteriorated condition, or replaced as part of an order issued by the commission, as well as energy efficiency projects, to the list of projects that are allowable water utility plant projects, and allows, beginning August 28, 2011, specified small water corporations to file a petition and proposed rate schedules with the commission to establish or change its infrastructure system replacement surcharge rate schedules that will allow for the adjustment of the corporation's rates and charges to provide for the recovery of costs for eligible infrastructure system replacements if the surcharge produces on an annual basis revenues of at least \$1 million or \$10,000 for a small water corporation. Currently, only water corporations in St. Louis County are allowed to file a petition and proposed rate schedules (Sections 393.1000 and 393.1003);

(7) Changes the laws regarding the Missouri Propane Education and Research Council by removing the provision allowing the Director of the Division of Energy within the Department of Natural Resources to initiate a referendum on the abolishment of the council and the fee for odorized propane. The substitute also removes the director's authority to fill council vacancies and instead requires appointments to be made by the council following a public nomination process. The director will no longer approve or recommend changes to the council's budget. The council must approve or modify the budget after a 30-day public comment period prior to the beginning of each fiscal period. The council will have authority to receive notice of meetings and require additional reports from the council and establish alternative means to collect the odorized propane fee and establish late payment charges. The provision allowing the National Propane Education and Research Council to establish a program coordinating its operation with the Missouri council and authorizing the Missouri council to keep funds from a federal rebate on propane fees collected by the national council is removed (Sections 414.530, 414.560, and 414.570); and

(8) Specifies that an electric or gas company must allow a customer who has not yet been disconnected and who incurs an arrearage during the cold weather rule period to retain service by paying one-third of the arrearage, plus the current bill, in each of the three months following the cold weather rule period (Section 660.122).

The substitute contains an emergency clause for the provisions regarding the appellate procedures for an issue initially decided by the Missouri Public Service Commission.

FISCAL NOTE: Estimated Net Effect on General Revenue Fund of an

income of \$0 to a cost of Unknown in FY 2012, FY 2013, and FY 2014. Estimated Net Income on Other State Funds of \$60,000 in FY 2012, FY 2013, and FY 2014.

PROPOSERS: Supporters say that the bill will help individuals making a good faith effort to pay their utility bills. It is unreasonable to burden them with additional security deposit requirements. Utilities are in agreement with this rule change.

Testifying for the bill was Senator Wright-Jones.

OPPOSERS: There was no opposition voiced to the committee.