

SECOND REGULAR SESSION

HOUSE BILL NO. 2094

100TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE BONDON.

4156H.011

DANA RADEMAN MILLER, Chief Clerk

AN ACT

To amend chapter 393, RSMo, by adding thereto four new sections relating to the Missouri water and sewer infrastructure act.

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

Section A. Chapter 393, RSMo, is amended by adding thereto four new sections, to be known as sections 393.1141, 393.1143, 393.1145, and 393.1147, to read as follows:

393.1141. Sections 393.1141 to 393.1147 shall be known and may be cited as the "Missouri Water and Sewer Infrastructure Act".

393.1143. As used in sections 393.1141 to 393.1147, the following terms mean:

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

(a) The water or sewer corporation's pretax weighted cost of capital multiplied by the net original cost of eligible infrastructure system projects, including recognition of accumulated deferred income taxes and accumulated depreciation associated with eligible infrastructure system projects that are included in a currently effective water and sewer infrastructure rate adjustment implemented under sections 393.1145 and 393.1147;

(b) The state, federal, and local income or excise taxes applicable to such revenues;

(c) The depreciation expense applicable to the eligible infrastructure system project;

(d) The property taxes applicable to the eligible infrastructure that will be due within twelve months of the filing of a request to implement a water and sewer infrastructure rate adjustment under sections 393.1145 and 393.1147;

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

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 (3) "Eligible infrastructure system projects", water or sewer utility plant projects
17 that:

18 (a) Replace or extend the useful life of existing infrastructure;

19 (b) Are in service and used and useful;

20 (c) Do not include projects intended solely for customer growth; and

21 (d) The costs of which were not included in the water or sewer corporation's base
22 rates in its most recent general rate case;

23 (4) "Water and Sewer Infrastructure Rate Adjustment" or "WSIRA", a separate
24 line item rate on a customer's water or sewer bill designed to recover the costs associated
25 with eligible infrastructure system projects implemented under sections 393.1141 to
26 393.1147;

27 (5) "WSIRA revenues", revenues produced through implementation of a WSIRA
28 under sections 393.1141 to 393.1147, exclusive of revenues from all other rates and charges;

29 (6) "Sewer corporation", the same as defined in section 386.020;

30 (7) "Water corporation", the same as defined in section 386.020;

31 (8) "Water or sewer utility plant projects" shall consist of the following:

32 (a) Replacement of or cleaning and relining of existing water mains and sewer
33 collection system mains, and associated valves, hydrants, meters, service lines, laterals,
34 sewer taps, curbstops, and manholes;

35 (b) Replacement of lead mains, lead goosenecks and lead service lines, and
36 associated valves and meters;

37 (c) Replacement or repainting of storage tanks, pumping equipment, and lift
38 stations;

39 (d) Replacement of water production plant infrastructure and sewer treatment
40 plant infrastructure; and

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

 393.1145. 1. Notwithstanding any provisions of chapter 386 and this chapter to the
2 contrary, a water or sewer corporation providing water or sewer service anywhere within
3 the state may file a petition and proposed rate schedules with the commission to establish
4 or change a WSIRA that will provide for the recovery of the appropriate pretax revenues
5 associated with the eligible infrastructure system projects. The WSIRA individually, or
6 when combined with a currently effective ISRS under subsection 1 of section 393.1003,

7 shall not produce revenues in excess of fifteen percent of the water or sewer corporation's
8 base revenue requirement approved by the commission in the water or sewer corporation's
9 most recent general rate proceeding; provided, however, that WSIRA revenues
10 attributable to replacement of lead infrastructure shall not count toward the program cap.
11 The WSIRA and any future changes thereto shall be calculated and implemented in
12 accordance with the provisions of sections 393.1143 to 393.1147. WSIRA revenues shall
13 be subject to refund based upon a finding and order of the commission, to the extent
14 provided in subsections 5 and 8 of section 393.1147.

15 2. The commission shall not approve a WSIRA for a water or sewer corporation
16 that has not had a general rate proceeding decided or dismissed by issuance of a
17 commission order within the past three years of the filing of a petition under this section,
18 unless the water or sewer corporation has filed for or is the subject of a new general rate
19 proceeding.

20 3. A water or sewer corporation shall not collect a WSIRA for a period exceeding
21 three years unless the water or sewer corporation has filed for or is the subject of a new
22 general rate proceeding; provided that the WSIRA may be collected until the effective date
23 of new rate schedules established as a result of the new general rate proceeding, or until
24 the subject general rate proceeding is otherwise decided or dismissed by issuance of a
25 commission order without new rates being established.

393.1147. 1. (1) At the time that a water or sewer corporation files a petition with
2 the commission seeking to establish or change a WSIRA, it shall submit proposed WSIRA
3 rate schedules and supporting documentation regarding the calculation of the proposed
4 WSIRA with the petition and shall serve the office of the public counsel with a copy of its
5 petition, its proposed WSIRA rate schedules, and its supporting documentation.

6 (2) Upon the filing of a petition and any associated WSIRA rate schedules seeking
7 to establish or change a WSIRA, the commission shall publish notice of the filing.

8 2. (1) When a petition, along with any associated proposed rate schedules, is filed
9 under the provisions of sections 393.1143 to 393.1147, the commission shall conduct an
10 examination of the proposed WSIRA.

11 (2) The staff of the commission may examine information of the water or sewer
12 corporation to confirm that the underlying costs are in accordance with the provisions of
13 sections 393.1143 to 393.1147 and to confirm proper calculation of the proposed WSIRA,
14 and may submit a report regarding its examination to the commission no later than sixty
15 days after the petition is filed. No other revenue requirement or ratemaking issues shall
16 be examined in consideration of the petition or associated proposed WSIRA rate schedules
17 filed under the provisions of sections 393.1141 to 393.1147.

18 (3) The commission may hold a hearing on the petition and any associated WSIRA
19 rate schedule and shall issue an order to become effective no later than one hundred twenty
20 days after the petition is filed.

21 (4) If the commission finds that a petition complies with the requirements of
22 sections 393.1143 to 393.1147, the commission shall enter an order authorizing the water
23 or sewer corporation to implement a WSIRA that is sufficient to recover appropriate
24 pretax revenues, as determined by the commission under the provisions of sections 393.114
25 to 393.1147.

26 3. A water or sewer corporation may effectuate a change in its WSIRA under this
27 section no more often than two times in every twelve-month period.

28 4. In determining the appropriate pretax revenues, the commission shall consider
29 only the following factors:

30 (1) The current state, federal, and local income or excise tax rates;

31 (2) The water or sewer corporation's actual regulatory capital structure, as
32 determined during the most recent general rate proceeding of the water or sewer
33 corporation;

34 (3) The actual cost rates for the water or sewer corporation's debt and preferred
35 stock, as determined during the most recent general rate proceeding of the water or sewer
36 corporation;

37 (4) The water or sewer corporation's cost of common equity, as determined during
38 the most recent general rate proceeding of the water or sewer corporation;

39 (5) The current property tax rate or rates applicable to the eligible infrastructure
40 system projects;

41 (6) The current depreciation rates applicable to the eligible infrastructure system
42 projects; and

43 (7) If information described in subdivisions (2), (3), and (4) is unavailable and the
44 commission is not provided with such information on an agreed-upon basis, the
45 commission shall utilize the overall pretax weighted average cost of capital last authorized
46 for the water or sewer corporation in a WSIRA or general rate proceeding.

47 5. (1) A WSIRA shall be calculated based upon the amount of infrastructure
48 system project costs that are eligible for recovery during the period in which the WSIRA
49 will be in effect and upon the applicable customer class billing determinants utilized in
50 designing the water or sewer corporation's customer rates in its most recent general rate
51 proceeding and allocated in a manner consistent with the rate design methodology utilized
52 to develop the water or sewer corporation's rates resulting from its most recent general
53 rate proceeding.

54 (2) At the end of each twelve-month calendar period that a WSIRA is in effect, the
55 water or sewer corporation shall reconcile the differences between the revenues resulting
56 from a WSIRA and the appropriate pretax revenues as found by the commission for that
57 period and shall submit the reconciliation and a proposed WSIRA to the commission for
58 approval to recover or credit the difference, as appropriate, through a WSIRA.

59 6. (1) A water or sewer corporation that has implemented a WSIRA under the
60 provisions of sections 393.1143 to 393.1147 shall file revised WSIRA schedules to reset the
61 WSIRA to zero if new base rates and charges become effective for the water or sewer
62 corporation following a commission order establishing customer rates in a general rate
63 proceeding that incorporates in the utility's base rates, subject to subsections 8 and 9 of this
64 section, eligible costs previously reflected in a WSIRA.

65 (2) Upon a water or sewer corporation's inclusion of eligible costs previously
66 reflected in a WSIRA into its base rates, subject to subsections 8 and 9 of this section, the
67 water or sewer corporation shall immediately thereafter reconcile any previously
68 unreconciled WSIRA revenues as necessary to ensure that revenues resulting from the
69 WSIRA match as closely as possible the appropriate pretax revenues as found by the
70 commission for that period.

71 7. A water or sewer corporation's filing of a petition to establish or change a
72 WSIRA under the provisions of sections 393.1143 to 393.1147 shall not be considered a
73 request for a general increase in the water or sewer corporation's base rates and charges.

74 8. Nothing contained in sections 393.1143 to 393.1147 shall be construed to impair
75 in any way the authority of the commission to review the prudence or the eligibility of
76 specific projects included in the proposed WSIRA, including the authority to approve,
77 modify, or reject project costs based on prudence and eligibility requirements.

78 9. The commission shall have authority to promulgate rules for the implementation
79 of sections 393.1143 to 393.1147, but only to the extent such rules are consistent with, and
80 do not delay the implementation of, the provisions of sections 393.1143 to 393.1147. Any
81 rule or portion of a rule, as that term is defined in section 536.010, that is created under
82 the authority delegated in this section shall become effective only if it complies with and
83 is subject to all of the provisions of chapter 536 and, if applicable, section 536.028. This
84 section and chapter 536 are nonseverable and if any of the powers vested with the general
85 assembly pursuant to chapter 536 to review, to delay the effective date, or to disapprove
86 and annul a rule are subsequently held unconstitutional, then the grant of rulemaking
87 authority and any rule proposed or adopted after August 28, 2020, shall be invalid and
88 void.

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