

House _____ Amendment NO. _____

Offered By _____

1 AMEND House Committee Substitute for House Bill No. 835, Page 2, Section 393.106, Line 53, by
2 inserting after all of said section and line the following:

3
4 "393.358. 1. For purposes of this section, the following terms shall mean:

5 (1) "Commission", the Missouri public service commission established under section
6 386.040;

7 (2) "Water corporation", a corporation with more than one thousand Missouri customers that
8 otherwise meets the definition of "water corporation" in section 386.020.

9 2. Water corporations shall develop a qualification process open to all contractors seeking to
10 provide construction and construction-related services for planned infrastructure projects on the
11 water corporation's distribution system. The water corporation shall specify qualification
12 requirements and goals for contractors seeking to perform such work, including but not limited to
13 experience, performance criteria, safety record and policies, technical expertise, scheduling needs
14 and available resources, supplier diversity and insurance requirements. Contractors that meet the
15 qualification requirements shall be eligible to participate in a competitive bidding process for
16 providing construction and construction-related services for planned infrastructure projects on the
17 water corporation's distribution system, and the contractor making the lowest and best bid shall be
18 awarded such contract. For contractors not qualifying through the competitive bid process, the
19 water corporation, upon request from the contractor, shall provide information from the process in
20 which the contractor can be informed as to how to be better positioned to qualify for such bid
21 opportunities in the future. Nothing in this section shall be construed as requiring any water
22 corporation to use third parties instead of its own employees to perform such work, to use the
23 contractor qualification or competitive bidding process in the case of an emergency project, or to
24 terminate any existing contract with a contractor prior to its expiration.

25 3. Within thirty days after August 28, 2018, and with the filing of a general rate proceeding
26 initiated by the water corporation, the water corporation shall file a statement with the commission
27 confirming it has established a qualification process meeting the requirements of this section and
28 that such process is used for no less than ~~ten~~ twenty percent of the corporation's external
29 expenditures for planned infrastructure projects on the water corporation's distribution system. The
30 commission shall have the authority to verify the statements to ensure compliance with this section.

31 4. By December 31, 2020, the commission shall submit a report to the general assembly on
32 the effects of this section, including water corporation compliance, the costs of performing planned
33 infrastructure projects prior to the implementation of this section compared to after the
34 implementation of this section, and any other information regarding the process established under
35 this section that the commission deems necessary.

36 393.1500. Sections 393.1500 to 393.1509 shall be known and may be cited as the "Missouri

Action Taken _____ Date _____

1 Water and Sewer Infrastructure Act".

2 393.1503. As used in sections 393.1500 to 393.1509, the following terms shall mean:

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

5 (a) The water or sewer corporation's pretax weighted cost of capital multiplied by the net
 6 original cost of eligible infrastructure system projects, including recognition of accumulated
 7 deferred income taxes and accumulated depreciation associated with eligible infrastructure system
 8 projects which are included in the petition to establish or change a WSIRA, plus accumulated
 9 deferred income taxes and accumulated depreciation associated with any eligible infrastructure
 10 system projects in a currently effective WSIRA implemented pursuant to sections 393.1506 and
 11 393.1509;

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

13 (c) The depreciation expense applicable to the eligible infrastructure system project less
 14 annual depreciation expense associated with any related facility retirements; and

15 (d) The property taxes applicable to the eligible infrastructure that will be due within twelve
 16 months of the filing of a request to implement a water and sewer infrastructure rate adjustment
 17 pursuant to sections 393.1506 and 393.1509 less any property taxes associated with any related
 18 facility retirements;

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

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

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

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

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

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

26 (4) "Sewer corporation", the same as defined in section 386.020;

27 (5) "Water and sewer infrastructure rate adjustment" or "WSIRA", a separate line item rate
 28 on a customer's water or sewer bill designed to recover the appropriate pretax revenues associated
 29 with eligible infrastructure system projects implemented pursuant to sections 393.1500 to 393.1509;

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

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

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

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

36 (c) Replacement of booster station and lift station pumps with equipment of similar capacity
 37 and operation, as well as related pipes, valves, and meters;

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

42 (e) Replacement of water and wastewater treatment mechanical equipment with equipment
 43 of similar capacity and operation, including well and intake pumps, transfer pumps, high service or
 44 discharge pumps, and metering pumps;

45 (f) Replacement of Supervisory Control and Data Acquisition System (SCADA)
 46 components necessary for the operation and monitoring of remote installations including radio and
 47 cellular communication equipment, and programmable logic controllers;

48 (8) "WSIRA revenues", revenues produced through implementation of a WSIRA pursuant
 49 to sections 393.1500 to 393.1509, exclusive of revenues from all other rates and charges.

1 393.1506. 1. Notwithstanding any provisions of chapter 386 and this chapter to the
 2 contrary, a water or sewer corporation that provides water or sewer service to more than eight
 3 thousand customer connections may file a petition and proposed rate schedules with the commission
 4 to establish or change a WSIRA that will provide for the recovery of the appropriate pretax revenues
 5 associated with the eligible infrastructure system projects, less the appropriate pretax revenues
 6 associated with any retired utility plant that is being replaced by the eligible infrastructure system
 7 projects. The WSIRA shall not produce revenues in excess of fifteen percent of the water or sewer
 8 corporation's base revenue requirement approved by the commission in the water or sewer
 9 corporation's most recent general rate proceeding; provided, however, that neither WSIRA revenues
 10 attributable to replacement of customer-owned lead service lines, nor any reconciliation amounts
 11 described in subdivision (2) of subsection 5 of section 393.1509, shall count toward the program
 12 cap. The WSIRA and any future changes thereto shall be calculated and implemented in accordance
 13 with the provisions of sections 393.1503 to 393.1509. WSIRA revenues shall be subject to refund
 14 based upon a finding and order of the commission, to the extent provided in subsections 5 and 8 of
 15 section 393.1509.

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

20 3. In no event shall a water or sewer corporation 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 pending general
 22 rate proceeding; provided that the WSIRA may be collected until the effective date of new rate
 23 schedules established as a result of the new general rate proceeding, or until the subject general rate
 24 proceeding is otherwise decided or dismissed by issuance of a commission order without new rates
 25 being established.

26 4. Except as provided in this subsection, in no event shall a water or sewer corporation
 27 collect a WSIRA if also collecting revenues from a commission-approved infrastructure system
 28 replacement surcharge as defined in sections 393.1000 to 393.1006. In no such event shall a
 29 customer be charged both an infrastructure system replacement surcharge under sections 393.1000
 30 to 393.1006 and a WSIRA. In the event a water corporation is collecting ISRS revenues under
 31 sections 393.1000 to 393.1006, that was approved prior to the effective date of this section when the
 32 initial WSIRA is filed, the approved ISRS revenues shall be included in the new WSIRA filing.

33 393.1509. 1. (1) At the time that a water or sewer corporation files a petition with the
 34 commission seeking to establish or change a WSIRA, it shall submit proposed WSIRA rate
 35 schedules and supporting documentation regarding the calculation of the proposed WSIRA with the
 36 petition and shall serve the office of the public counsel with a copy of its petition, its proposed
 37 WSIRA rate schedules, and its supporting documentation.

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

40 (3) Three months prior to a water or sewer corporation filing a petition to establish a
 41 WSIRA, it shall also file with the commission a five-year capital expenditure plan unless such a
 42 plan has already been submitted during the previous twelve months. Thereafter, the water or sewer
 43 corporation shall annually file with the commission a five-year capital expenditure plan by January
 44 thirty first of each year the company is collecting revenues through a WSIRA.

45 2. (1) When a petition, along with any associated proposed rate schedules, is filed pursuant
 46 to the provisions of sections 393.1503 to 393.1509, the commission shall conduct an examination of
 47 the proposed WSIRA.

48 (2) The staff of the commission may examine information of the water or sewer corporation
 49 to confirm that the underlying costs are in accordance with the provisions of sections 393.1503 to

393.1509, and to confirm proper calculation of the proposed WSIRA, and may submit a report regarding its examination to the commission not later than ninety days after the petition is filed. No other revenue requirement or ratemaking issues shall be examined in consideration of the petition or associated proposed WSIRA rate schedules filed pursuant to the provisions of sections 393.1503 to 393.1509.

(3) The commission may hold a hearing on the petition and any associated WSIRA rate schedule and shall issue an order to become effective not later than one hundred eighty days after the petition is filed.

(4) If the commission finds that a petition complies with the requirements of sections 393.1503 to 393.1509, the commission shall enter an order authorizing the water or sewer corporation to implement a WSIRA that is sufficient to recover appropriate pretax revenues, as determined by the commission pursuant to the provisions of sections 393.1503 to 393.1509.

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

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

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

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

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

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

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

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

(7) In the event information described in subdivisions (2), (3), and (4) of this subsection is unavailable and the commission is not provided with such information on an agreed-upon basis, the commission shall utilize the overall pretax weighted average cost of capital last authorized for the water or sewer in a general rate proceeding regarding an ISRS or WSIRA.

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

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

6. (1) A water or sewer corporation that has implemented a WSIRA pursuant to the provisions of sections 393.1503 to 393.1509 shall file revised WSIRA schedules to reset the WSIRA to zero when new base rates and charges become effective for the water or sewer corporation following a commission order establishing customer rates in a general rate proceeding that incorporates in the utility's base rates, subject to subsections 8 and 9 of this section, eligible costs previously reflected in a WSIRA.

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

6 7. A water or sewer corporation's filing of a petition to establish or change a WSIRA
7 pursuant to the provisions of sections 393.1503 to 393.1509 shall not be considered a request for a
8 general increase in the water or sewer corporation's base rates and charges.

9 8. Commission approval of a petition, and any associated rate schedules, to establish or
10 change a WSIRA pursuant to the provisions of sections 393.1503 to 393.1509 shall in no way be
11 binding upon the commission in determining the ratemaking treatment to be applied to eligible
12 infrastructure system projects during a subsequent general rate proceeding when the commission
13 may undertake to review the prudence of such costs. In the event the commission disallows, during
14 a subsequent general rate proceeding, recovery of costs associated with eligible infrastructure
15 system projects previously included in a WSIRA, the water or sewer corporation shall offset its
16 WSIRA in the future as necessary to recognize and account for any such overcollections.

17 9. Nothing contained in sections 393.1503 to 393.1509 shall be construed to impair in any
18 way the authority of the commission to review the reasonableness of the rates or charges of a water
19 or sewer corporation, including review of the prudence of eligible infrastructure system
20 replacements made by a water or sewer corporation, pursuant to the provisions of section 386.390.

21 10. The commission may take into account any change in business risk to the water or sewer
22 corporation resulting from implementation of the WSIRA in setting the corporation's allowed return
23 in a general rate proceeding in addition to any other changes in business risk experienced by the
24 corporation

25 11. The commission shall have authority to promulgate rules for the implementation of
26 sections 393.1503 to 393.1509, but only to the extent such rules are consistent with, and do not
27 delay the implementation of, the provisions of sections 393.1503 to 393.1509. Any rule or portion
28 of a rule, as that term is defined in section 536.010, that is created under the authority delegated in
29 this section shall become effective only if it complies with and is subject to all of the provisions of
30 chapter 536 and, if applicable, section 536.028. This section and chapter 536 are nonseverable and
31 if any of the powers vested with the general assembly pursuant to chapter 536 to review, to delay the
32 effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the
33 grant of rulemaking authority and any rule proposed or adopted after August 28, 2021, shall be
34 invalid and void.

35 12. The provisions of sections 393.1500 to 393.1509 shall expire on December 31, 2031.";
36 and

37
38 Further amend said bill by amending the title, enacting clause, and intersectional references
39 accordingly.