

HCS SS SB 44 -- Utilities

SPONSOR: White (Wallingford)

COMMITTEE ACTION: Voted "Do Pass with HCS" by the Standing Committee on Utilities by a vote of 7 to 2. Voted "Do Pass" by the Standing Committee on Rules- Administrative Oversight by a vote of 9 to 2.

The following is a summary of the House Committee Substitute for SB 44.

This bill changes the provisions related to utilities.

RESTRICTING UTILITY SERVICE (Section 67.309, RSMo)

The bill prohibits any political subdivision of the state from adopting an ordinance, resolution, regulation, code, or policy that prohibits or has the effect of prohibiting the connection or reconnection of a utility service based on the type or source of energy to be delivered to an individual customer. A political subdivision may choose utility services for properties owned by the political subdivision and may protect public safety.

SERVICE TERRITORIES OF RETAIL ELECTRIC SERVICE PROVIDERS (Sections 91.025, 386.800, 393.106, 394.020, & 394.315):

The bill changes the provisions relating to service territories of retail electric service providers. In the event that a retail electric supplier is providing service to a structure located within a municipality that has ceased to be a rural area, and the structure is demolished and replaced by a new structure, the retail electric service supplier may provide permanent service to the new structure upon the request of the owner of the new structure. Additionally, in the absence of an approved territorial agreement, the municipally owned utility must apply to the Public Service Commission for an order assigning nonexclusive service territories and concurrently shall provide written notice of the application to other electric service suppliers with electric facilities located within a mile outside of the boundaries of the proposed expanded service territory. In granting the applicant's request, the Commission must give due regard to territories previously served by the other electric service suppliers and the wasteful duplication of electric service facilities.

Any municipally owned electric utility may extend its electric service territory to include areas where another electric supplier currently is not providing permanent service to a structure. If a rural electric cooperative has existing electric service facilities in the area proposed to be annexed, the majority of the existing developers, landowners, or prospective electric customers may

submit a written request to the governing body of the annexing municipality to invoke mandatory good faith negotiations. These provisions also apply in the event an electrical corporation rather than a municipally owned electric utility is providing electric service in the municipality.

The bill also changes the term "fair and reasonable compensation" to be 200%, rather than 400%, of gross revenues less gross receipts taxes received by the affected electric service supplier from the 12 month period preceding the approval of the municipality's governing body. Additionally, this bill changes the definition of the population of a "rural area" to be increased by 6% every 10 years after each census beginning in 2030.

At the time that a municipally owned utility applies to the Public Service Commission for an order assigning nonexclusive service territories, the utility must concurrently provide written notice of the application to other electric service suppliers with electric facilities located within a mile outside of the boundaries of the proposed expanded service territory. In granting the applicant's request, the Commission must consider territories previously granted to or served by other electric service suppliers and the duplication of electric service facilities.

Any municipally owned electric utility may extend its electric service territory to include areas where another electric service supplier is not currently serving a structure but has existing electric service facilities located in or within a mile outside the boundaries of the area proposed to be annexed, provided it first notifies in writing the affected electric service supplier within 60 days prior to the effective date of the proposed annexation. If the affected electric service supplier objects, it must follow procedures specified in the bill.

Responsibility for payment of fees set by the Commission to carry out its duties related to determining service territories are on the parties to the proceeding as ordered by the Commission in each case.

If an electrical corporation is providing electric service within a municipality and the corporation has previously received a certificate of convenience and necessity from the Commission to provide electric service in the annexed area or the area proposed to be annexed, certain provisions of the bill apply equally to the electrical corporation as if it were a municipally owned utility. A municipality is not precluded from having a population of at least 1,500 inhabitants as of August 28, 2021, from requiring a rural electric cooperative to obtain a franchise to provide electric service, or to impose a sales tax, within the boundaries of the municipality.

ENERGY PROPERTY TAXATION (sections 153.030, 153.034 RSMo)

Beginning January 1, 2022, the bill also provides that any real and personal property of any public utility that was constructed

using financing under Chapter 100 will be valued and taxed upon the county assessor's local tax rolls. The property constructed using financing under Chapter 100 will be assessed using the methodology set forth in the bill.

#### COMMON SEWER DISTRICTS (Section 204.569)

Currently, when an unincorporated sewer subdistrict of a common sewer district has been formed, the board of trustees of the common sewer district has the power to issue bonds with assent of 4/7 of the voters of the subdistrict on the question. The bill states that as an alternative to such vote, if the subdistrict is a part of a common sewer district located in whole or in part in certain counties, bonds may be issued for the subdistrict if the question receives the written assent of 3/4 of the customers of the subdistrict.

#### PUBLIC SERVICE COMMISSION ASSESSMENT (Section 386.370)

Currently, the Public Service Commission can assess no more than 0.25% of the total gross intrastate operating revenues against all utilities under the jurisdiction of the Commission for the cost of regulating such utilities. The bill changes the assessment rate to no more than 0.38% of the total gross intrastate operating revenues.

#### WATER AND SEWER INFRASTRUCTURE (Sections 393.1500 to 393.1509)

Currently, water corporations with more than 1,000 customers are required to use a competitive bidding process for no less than 10% of the corporation's external expenditures for planned infrastructure projects on the water corporation's distribution system. This bill requires a competitive bidding process be used for 20% of the corporation's external expenditures for such projects.

The bill also establishes the "Missouri Water and Sewer Infrastructure Act", which specifies that a water or sewer company may file a petition and proposed rate schedules with the Public Service Commission to create or change an infrastructure rate adjustment (WSIRA) that provides for the recovery of pretax revenues associated with eligible infrastructure projects. The WSIRA and any future changes must meet specific requirements.

The Commission cannot approve a WSIRA for a water or sewer corporation that has not had a general rate proceeding decided or dismissed within the past three years of the filing of a WSIRA petition unless the corporation has filed for or is the subject of a pending general rate proceeding. A corporation cannot collect a WSIRA for more than three years unless the corporation had filed for or is the subject of a new rate proceeding. In such case, the

WSIRA can be collected until the effective date of the new rate schedules.

At the time the corporation files a petition to establish or change a WSIRA, it must submit proposed WSIRA rate schedules and supporting documentation, and it must also serve the Office of Public Counsel with a copy of the petition, rate schedules, and documentation. Upon filing, the Commission must publish a notice of the filing, and conduct an examination of the proposed WSIRA, as specified in the bill. The Commission may hold a hearing on the petition and any associated WSIRA rate schedules. If the Commission finds that a petition complies with the requirements, the Commission must enter an order authorizing the corporation to implement the WSIRA. A corporation may effectuate a change in its WSIRA no more than twice in every 12-month period.

The bill specifies information the Commission may consider in determining the appropriate pretax revenues and how the WSIRA is calculated. If this information is unavailable and the Commission has not provided it on an agreed-upon basis, the Commission must use the last authorized overall pretax weighted average cost of capital for a WSIRA or the last authorized overall pretax weighted average cost of capital in a general rate proceeding for the corporation. At the end of each 12-month period that the WSIRA is in effect, the corporation must reconcile the differences between the revenues from a WSIRA and the appropriate pretax revenues found by the Commission for that period and submit the reconciliation and proposed WSIRA to the Commission for approval to recover or credit the difference.

A corporation that has a WSIRA must file revised WSIRA schedules when new base rates and charges become effective following a general rate proceeding that includes the WSIRA eligible costs in the base rates. Once the eligible costs are included in corporation's base rates, the corporation must reconcile any previously unreconciled WSIRA revenues to ensure that revenues resulting from the WSIRA match as closely as possible the appropriate pretax revenues.

A corporation's filing of a petition to establish or change a WSIRA is not considered a request for a general increase in the corporation's base rates and charges. Nothing in this bill impairs the authority of the Commission to review the prudence or eligibility of specific projects in the proposed WSIRA. The commission may take into account any change in business risk to the water or sewer corporation resulting from the WSIRA when setting the allowed return in a general rate proceeding.

The provisions of the Missouri Water and Sewer Infrastructure Act

expire on December 31, 2031.

The following is a summary of the public testimony from the committee hearing. The testimony was based on the introduced version of the bill.

**PROPONENTS:** Supporters say that this bill would promote proactive replacement of water infrastructure. It can cost up to 10 times more to replace a water main in an emergency than replacing the main in coordination with other public works projects. Maintaining the water and wastewater infrastructure is important to the economy of the state because affordable, reliable utilities help attract and retain business in the state.

Testifying for the bill were Senator White; Greater St Louis Inc; Missouri American Water; Construction Employers Coalition; Missouri Chamber of Commerce and Industry; and the Association of Missouri Electric Cooperatives. Additional written testimony was submitted in support of the bill.

**OPPONENTS:** Those who oppose the bill say that this would increase water and sewer rates for customers without consumer protection provisions such as a rate increase cap and a sunset date. The bill also limits what expenditures the commission can look at during a prudence review. Testifying against the bill was Midwest Energy Consumers Group. Additional written testimony was submitted in opposition of the bill.

**OTHERS:** Others testifying on the bill say that the bill limits a political subdivision's ability to regulate propane tanks as it relates to public safety. Also the provisions relating to the assessment of petroleum pipes is concerning since for gas service stations, the property currently is not assessed separate from rest of the service station.

Testifying on the bill were Missouri Municipal League; and the Missouri State Assessors Association.

Written testimony has been submitted for this bill. The full written testimony can be found under Testimony on the bill page on the House website.