

FIRST REGULAR SESSION

HOUSE BILL NO. 1152

102ND GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE BROMLEY.

2477H.011

DANA RADEMAN MILLER, Chief Clerk

AN ACT

To repeal sections 393.320 and 393.1506, RSMo, and to enact in lieu thereof two new sections relating to public utility water connections.

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

Section A. Sections 393.320 and 393.1506, RSMo, are repealed and two new sections
2 enacted in lieu thereof, to be known as sections 393.320 and 393.1506, to read as follows:

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

2 (1) "Large water public utility", a public utility:

3 (a) That regularly provides water service [~~or sewer service~~] to more than eight
4 thousand customer connections, **regularly provides sewer service to more than eight**
5 **thousand customer connections, or regularly provides a combination of either to more**
6 **than eight thousand customer connections;** and

7 (b) That provides safe and adequate service but shall not include a sewer district
8 established under Section 30(a), Article VI of the Missouri Constitution, sewer districts
9 established under the provisions of chapter 204, 249, or 250, public water supply districts
10 established under the provisions of chapter 247, or municipalities that own water or sewer
11 systems;

12 (2) "Small water utility", a public utility that regularly provides water service or
13 sewer service to eight thousand or fewer customer connections; a water district established
14 under the provisions of chapter 247 that regularly provides water or sewer service to eight
15 thousand or fewer customer connections; a sewer district established under the provisions of
16 chapter 204, 249, or 250 that regularly provides sewer service to eight thousand or fewer
17 customer connections; or a water system or sewer system owned by a municipality that

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.

18 regularly provides water service or sewer service to eight thousand or fewer customer
19 connections; and all other entities that regularly provide water service or sewer service to
20 eight thousand or fewer customer connections.

21 2. The procedures contained in this section may be chosen by a large water public
22 utility, and if so chosen shall be used by the public service commission to establish the
23 ratemaking rate base of a small water utility during an acquisition.

24 3. (1) An appraisal shall be performed by three appraisers. One appraiser shall be
25 appointed by the small water utility, one appraiser shall be appointed by the large water public
26 utility, and the third appraiser shall be appointed by the two appraisers so appointed. Each of
27 the appraisers shall be a disinterested person who is a certified general appraiser under
28 chapter 339.

29 (2) The appraisers shall:

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

33 (b) Return their appraisal, in writing, to the small water utility and large water public
34 utility in a reasonable and timely manner.

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

37 4. Nothing in this section shall prohibit a party from declining to proceed with an
38 acquisition or be deemed as establishing the final purchase price of an acquisition.

39 5. (1) The lesser of the purchase price or the appraised value, together with the
40 reasonable and prudent transaction, closing, and transition costs incurred by the large water
41 public utility, shall constitute the ratemaking rate base for the small water utility as acquired
42 by the acquiring large water public utility; provided, however, that if the small water utility is
43 a public utility subject to chapter 386 and the small water utility completed a rate case prior to
44 the acquisition, the public service commission may select as the ratemaking rate base for the
45 small water utility as acquired by the acquiring large water public utility a ratemaking rate
46 base in between:

47 (a) The lesser of the purchase price or the appraised value, together with the
48 reasonable and prudent transaction, closing, and transition costs incurred by the large water
49 public utility unless such transaction, closing, and transition costs are elsewhere recoverable
50 in rates; and

51 (b) The ratemaking rate base of the small water utility as ordered by the public service
52 commission in the small water utility's last previous rate case as adjusted by improvements
53 and depreciation reserve since the previous rate case together with the transaction, closing,
54 and transition costs incurred by the large water public utility unless such transaction, closing,

55 and transition costs are elsewhere recoverable in rates. If the small water utility and large
56 water public utility proceed with the sale, any past-due fees due to the state from the small
57 water utility or its customers under chapter 640 or 644 shall be resolved prior to the transfer
58 of ownership or the liability for such past-due fees becomes the responsibility of the large
59 water public utility. Such fees shall not be included in the large water public utility's rate
60 base.

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

63 6. Upon the date of the acquisition of a small water utility by a large water public
64 utility, whether or not the procedures for establishing ratemaking rate base provided by this
65 section have been utilized, the small water utility shall, for ratemaking purposes, become part
66 of an existing service area, as defined by the public service commission, of the acquiring large
67 water public utility that is either contiguous to the small water utility, the closest
68 geographically to the small water utility, or best suited due to operational or other factors.
69 This consolidation shall be approved by the public service commission in its order approving
70 the acquisition.

71 7. Any new permit issued pursuant to chapters 640 and 644, when a small water
72 utility is acquired by a large water public utility, shall include a plan to resolve all outstanding
73 permit compliance issues. After the transfer of ownership, the acquiring large public water
74 utility shall continue providing service to all customers that were served by the small water
75 utility at the time of sale.

76 8. This section is intended for the specific and unique purpose of determining the
77 ratemaking rate base of small water utilities and shall be exclusively applied to large water
78 public utilities in the acquisition of a small water utility. This section is not intended to apply
79 beyond its specific purpose and shall not be construed in any manner to apply to electric
80 corporations, natural gas corporations, or any other utility regulated by the public service
81 commission.

393.1506. 1. Notwithstanding any provisions of chapter 386 and this chapter to the
2 contrary, ~~a water or sewer corporation~~ **a public utility** that provides water ~~or sewer~~ service
3 to more than eight thousand customer connections, **sewer service to more than eight**
4 **thousand customer connections, or a combination of either to more than eight thousand**
5 **customer connections** may file a petition and proposed rate schedules with the commission
6 to establish or change a WSIRA that will provide for the recovery of the appropriate pretax
7 revenues associated with the eligible infrastructure system projects, less the appropriate
8 pretax revenues associated with any retired utility plant that is being replaced by the eligible
9 infrastructure system projects. The WSIRA shall not produce revenues in excess of fifteen
10 percent of the water or sewer corporation's base revenue requirement approved by the

11 commission in the water or sewer corporation's most recent general rate proceeding;
12 provided, however, that neither WSIRA revenues attributable to replacement of customer-
13 owned lead service lines, nor any reconciliation amounts described in subdivision (2) of
14 subsection 5 of section 393.1509, shall count toward the program cap. The WSIRA and any
15 future changes thereto shall be calculated and implemented in accordance with the provisions
16 of sections 393.1503 to 393.1509. WSIRA revenues shall be subject to refund based upon a
17 finding and order of the commission, to the extent provided in subsections 5 and 8 of section
18 393.1509.

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

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

29 4. Except as provided in this subsection, in no event shall a water or sewer
30 corporation collect a WSIRA if also collecting revenues from a commission approved
31 infrastructure system replacement surcharge as provided in sections 393.1000 to 393.1006. In
32 no event shall a customer be charged both an infrastructure system replacement surcharge as
33 provided in sections 393.1000 to 393.1006 and a WSIRA. In the event a water or sewer
34 corporation is collecting infrastructure system replacement surcharge revenues under sections
35 393.1000 to 393.1006, that was approved prior to August 28, 2021, when the initial WSIRA
36 is filed, the approved infrastructure system replacement surcharge revenues shall be included
37 in the new WSIRA filing.

✓