

House _____ Amendment NO. _____

Offered By

1 AMEND House Committee Substitute for Senate Substitute for Senate Committee Substitute for
2 Senate Bill No. 1351, Page 2, Section 256.410, Line 40, by inserting after all of said section and line
3 the following:
4

5 "393.320. 1. As used in this section, the following terms mean:

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

7 (a) That regularly provides water service [~~or sewer service~~] to more than eight thousand
8 customer connections, regularly provides sewer service to more than eight thousand customer
9 connections, or regularly provides a combination of either to more than eight thousand customer
10 connections; and

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

15 (2) "Small water utility", a public utility that regularly provides water service or sewer
16 service to eight thousand or fewer customer connections; a water district established under the
17 provisions of chapter 247 that regularly provides water or sewer service to eight thousand or fewer
18 customer connections; a sewer district established under the provisions of chapter 204, 249, or 250
19 that regularly provides sewer service to eight thousand or fewer customer connections; or a water
20 system or sewer system owned by a municipality that regularly provides water service or sewer
21 service to eight thousand or fewer customer connections; and all other entities that regularly provide
22 water service or sewer service to eight thousand or fewer customer connections.

23 2. The procedures contained in this section may be chosen by a large water public utility,
24 and if so chosen [~~shall~~] may be used by the public service commission to establish the ratemaking
25 rate base of a small water utility during an acquisition, provided that the public service commission
26 independently concludes that a certificate of convenience and necessity should be granted pursuant
27 to section 393.170, unless the public service commission finds that the application of this section
28 results in rates that are unjust and unreasonable.

29 3. (1) An appraisal shall be performed by three appraisers. One appraiser shall be
30 appointed by the small water utility, one appraiser shall be appointed by the large water public

Action Taken _____ Date _____

1 utility, and the third appraiser shall be appointed by the two appraisers so appointed. Each of the
2 appraisers shall be a disinterested person who is a certified general appraiser under chapter 339.

3 (2) The appraisers shall:

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

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

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

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

13 5. (1) The lesser of the purchase price or the appraised value, together with the reasonable
14 and prudent transaction, closing, and transition costs incurred by the large water public utility, shall
15 constitute the ratemaking rate base for the small water utility as acquired by the acquiring large
16 water public utility; provided, however, that if the small water utility is a public utility subject to
17 chapter 386 and the small water utility completed a rate case prior to the acquisition, the public
18 service commission may select as the ratemaking rate base for the small water utility as acquired by
19 the acquiring large water public utility a ratemaking rate base in between:

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

23 (b) The ratemaking rate base of the small water utility as ordered by the public service
24 commission in the small water utility's last previous rate case as adjusted by improvements and
25 depreciation reserve since the previous rate case together with the transaction, closing, and transition
26 costs incurred by the large water public utility unless such transaction, closing, and transition costs
27 are elsewhere recoverable in rates. If the small water utility and large water public utility proceed
28 with the sale, any past-due fees due to the state from the small water utility or its customers under
29 chapter 640 or 644 shall be resolved prior to the transfer of ownership or the liability for such past-
30 due fees becomes the responsibility of the large water public utility. Such fees shall not be included
31 in the large water public utility's rate base.

32 (2) The public service commission shall issue its decision establishing the ratemaking rate
33 base of the small water utility in its order approving the acquisition. For any acquisition with an
34 appraised value of five million dollars or less, such decision shall be issued within six months from
35 the submission of the application by the large public water utility to acquire the small water utility.

36 (3) Prior to the expiration of the six-month period, the public service commission staff or
37 the office of public counsel may request, upon a showing of good cause, from the public service
38 commission an extension for approval of the application for an additional thirty days.

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

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

13 8. This section is intended for the specific and unique purpose of determining the
 14 ratemaking rate base of small water utilities and shall be exclusively applied to large water public
 15 utilities in the acquisition of a small water utility. A large water public utility's choice to comply
 16 with the provisions of this section does not automatically ensure that the transaction is in the public
 17 interest. The public service commission shall independently determine whether the acquisition is in
 18 the public interest, regardless of whether the matter has been put to a vote of the small water utility's
 19 ratepayers. This section is not intended to apply beyond its specific purpose and shall not be
 20 construed in any manner to apply to electric corporations, natural gas corporations, or any other
 21 utility regulated by the public service commission.

22 393.1506. 1. Notwithstanding any provisions of chapter 386 and this chapter to the
 23 contrary, a water or sewer corporation that provides water [~~or sewer~~] service to more than eight
 24 thousand customer connections, sewer service to more than eight thousand customer connections, or
 25 a combination of either to more than eight thousand customer connections may file a petition and
 26 proposed rate schedules with the commission to establish or change a WSIRA that will provide for
 27 the recovery of the appropriate pretax revenues associated with the eligible infrastructure system
 28 projects, less the appropriate pretax revenues associated with any retired utility plant that is being
 29 replaced by the eligible infrastructure system projects. The WSIRA shall not produce revenues in
 30 excess of fifteen percent of the water or sewer corporation's base revenue requirement approved by
 31 the commission in the water or sewer corporation's most recent general rate proceeding; provided,
 32 however, that neither WSIRA revenues attributable to replacement of customer-owned lead service
 33 lines, nor any reconciliation amounts described in subdivision (2) of subsection 5 of section
 34 393.1509, shall count toward the program cap. The WSIRA and any future changes thereto shall be
 35 calculated and implemented in accordance with the provisions of sections 393.1503 to 393.1509.
 36 WSIRA revenues shall be subject to refund based upon a finding and order of the commission, to
 37 the extent provided in subsections 5 and 8 of section 393.1509.

38 2. The commission shall not approve a WSIRA for a water or sewer corporation that has not
 39 had a general rate proceeding decided or dismissed by issuance of a commission order within the

1 past three years of the filing of a petition pursuant to this section unless the water or sewer
2 corporation has filed for or is the subject of a new general rate proceeding.

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

9 4. Except as provided in this subsection, in no event shall a water or sewer corporation
10 collect a WSIRA if also collecting revenues from a commission approved infrastructure system
11 replacement surcharge as provided in sections 393.1000 to 393.1006. In no event shall a customer
12 be charged both an infrastructure system replacement surcharge as provided in sections 393.1000 to
13 393.1006 and a WSIRA. In the event a water or sewer corporation is collecting infrastructure
14 system replacement surcharge revenues under sections 393.1000 to 393.1006, that was approved
15 prior to August 28, 2021, when the initial WSIRA is filed, the approved infrastructure system
16 replacement surcharge revenues shall be included in the new WSIRA filing."; and

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18 Further amend said bill by amending the title, enacting clause, and intersectional references
19 accordingly.