

FIRST REGULAR SESSION

SENATE BILL NO. 440

92ND GENERAL ASSEMBLY

INTRODUCED BY SENATOR STEELMAN.

Read 1st time February 6, 2003, and 1,000 copies ordered printed.

TERRY L. SPIELER, Secretary.

1450S.011

AN ACT

To repeal section 393.015, RSMo, and to enact in lieu thereof one new section relating to water service disconnection for nonpayment of sewer bill.

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

Section A. Section 393.015, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 393.015, to read as follows:

393.015. 1. Notwithstanding any other provision of law to the contrary, any [sewer corporation, municipality or sewer district established under the provisions of chapter 249 or 250, RSMo, or sections 204.250 to 204.470, RSMo, or any sewer district created and organized pursuant to constitutional authority, may contract with any water corporation, municipality, or public water supply district established under chapter 247, RSMo, to terminate water services to any customer premises for nonpayment of a sewer bill. No such termination of water service may occur until thirty days after the sewer corporation, municipality or statutory sewer district or sewer district created and organized pursuant to constitutional authority sends a written notice to the customer by certified mail, except that if the water corporation, municipality or public water supply district is performing a combined water and sewer billing service for the sewer corporation, municipality or sewer district, no additional notice or any additional waiting period shall be required other than the notice and waiting period already used by the water corporation, municipality or public water supply district to disconnect water service for nonpayment of the water bill. Acting pursuant to a contract, the water corporation, municipality or public water supply district shall discontinue water service until such time as the sewer charges and all related costs of termination and reestablishment of sewer and water services are paid by the customer.

EXPLANATION—Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

2. A water corporation, municipality, or public water supply district acting pursuant to a contract with a sewer corporation, municipality or sewer district as provided in subsection 1 of this section shall not be liable for damages related to termination of water services unless such damage is caused by the negligence of such water corporation, municipality, or public water supply district, in which case the water corporation, municipality, or public water supply district shall be indemnified by the sewer corporation, municipality or sewer district. Unless otherwise specified in the contract, all costs related to the termination and reestablishment of services by the water corporation, municipality or public water supply district shall be reimbursed by the sewer corporation, municipality, sewer district or sewer district created and organized pursuant to constitutional authority.] **water corporation, municipality providing water, or any water district established under the provisions of chapter 247, RSMo, shall upon request of any municipality providing sewer service or public sewer district established under the provisions of chapter 249 or 250, RSMo, or sections 204.250 to 204.470, RSMo, or any sewer district created and organized pursuant to constitutional authority, contract with such municipality or public sewer district to terminate water services to any customer premises for nonpayment of a sewer bill.**

2. In the event that the aforesaid water corporation, municipality, or water district and the aforesaid municipality or sewer district are unable to reach an agreement as herein provided within four months of the receipt of such request by the water corporation, municipality or water district, then the municipality or sewer district making the written request, may file with the circuit court in which the water corporation, municipality, or water district was incorporated or formed, a petition requesting that three commissioners draft such an agreement.

3. Upon the filing of such petition, the party filing the petition shall include therein the name of one of the commissioners to be appointed by the court; the other party shall appoint one commissioner within thirty days of the service of the petition upon the second party. If the second party fails to appoint a commissioner within such a time period, the court shall appoint a commissioner on behalf of the second party within forty-five days of service of the petition upon the second party. Such two named commissioners shall agree to appoint a third commissioner within thirty days of the appointment of the second commissioner, but in the event that they fail to agree, the court shall appoint a third disinterested commissioner within forty-five days after appointment of the second commissioner.

4. The commissioners shall draft an agreement between the water corporation, municipality or water district and the municipality or sewer district meeting the requirements set forth herein. Before drafting such agreement, the parties shall be given an opportunity to present evidence and information pertaining to such

agreement at a hearing to be held by the commissioners. Each party shall receive fifteen days written notice of said hearing, however, at any time prior to the date of the hearing, either party may request an automatic thirty day extension by delivering notification in writing to the opposing party and the commissioners. The commissioners shall consider such evidence and information submitted to them and prepare such agreement as provided herein. The hearing may be continued from time to time at the discretion of the commissioners, until such time as both parties have had an opportunity to present evidence therein. Said agreement shall be submitted to the court within forty-five days of the completion of the hearing. The costs of said action shall be paid by the petitioning party, who shall also pay the reasonable costs of the commissioners, if any, as determined by the court.

5. If the court finds that such agreement meets the requirements of this section, then the court shall enter its judgment approving such agreement and order it to become effective not later than sixty days after the date of such judgment. Thereafter the parties shall abide by such agreement. If either party fails to do so, the other party may file an action to compel compliance. Venue shall be in the court issuing the judgment.

6. The judgment and order of the court shall be subject to an appeal as provided by law.

7. No such termination of water service may occur until thirty days after the municipality or sewer district sends a written notice to the customer by certified mail, except that if the water corporation, municipality, or water district is performing a combined water and sewer billing service for the municipality or sewer district, no additional notice or any additional waiting period shall be required other than the notice and the waiting period already used by the water corporation, municipality or water district to disconnect water service for the nonpayment of the water bill. Acting pursuant to a contract, the water corporation, municipality, or public water supply district shall discontinue water service until such time as the customer pays the sewer charges and all related costs of termination and reestablishment of sewer and water services in full or payment arrangements have been accepted and approved by the municipality or sewer district.

8. Any water corporation, municipality, or water district disconnecting water services to collect a delinquent sewer charge at the written request of a municipality or sewer district pursuant to an agreement made under this section shall be absolutely immune from civil liability for damages or costs resulting from disconnection in accordance with the terms and conditions of such agreement.

9. Unless otherwise specified in the contract, all costs related to the

termination and re-establishment of water service shall be reimbursed by the municipality or sewer district. Such reimbursement may include, but not be limited to, lost revenue and other reasonable expenses incurred as a result of such termination of water service. All costs paid the municipality or sewer district pursuant to the provisions of this section shall be charged to and paid by the customer whose service was terminated.

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