

FIRST REGULAR SESSION  
[TRULY AGREED TO AND FINALLY PASSED]  
CONFERENCE COMMITTEE SUBSTITUTE FOR  
HOUSE COMMITTEE SUBSTITUTE FOR

# SENATE BILL NO. 416

94TH GENERAL ASSEMBLY

2007

1753S.03T

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## AN ACT

To repeal sections 247.172, 394.312, and 516.090, RSMo, and to enact in lieu thereof three new sections relating to actions involving certain lands.

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

Section A. Sections 247.172, 394.312, and 516.090, RSMo, are repealed  
2 and three new sections enacted in lieu thereof, to be known as sections 247.172,  
3 394.312, and 516.090, to read as follows:

247.172. 1. Competition to sell and distribute water, as between and  
2 among public water supply districts, water corporations subject to public service  
3 commission jurisdiction, and municipally owned utilities may be displaced by  
4 written territorial agreements, but only to the extent hereinafter provided for in  
5 this section.

6 2. Such territorial agreements shall specifically designate the boundaries  
7 of the water service area of each water supplier subject to the agreement, any and  
8 all powers granted to a public water supply district by a municipality, pursuant  
9 to the agreement, to operate within the corporate boundaries of that municipality,  
10 notwithstanding the provisions of sections 247.010 to 247.670 to the contrary, and  
11 any and all powers granted to a municipally owned utility, pursuant to the  
12 agreement, to operate in areas beyond the corporate municipal boundaries of its  
13 municipality.

14 3. Where the parties cannot agree **upon the boundaries of the water**  
15 **service areas that are to be set forth in the agreement**, they may, by  
16 mutual consent of all parties involved, petition the public service commission to

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

17 designate the boundaries of the water service areas to be served by each party  
18 and such designations by the commission shall be binding on all such  
19 parties. Petitions shall be made pursuant to the rules and regulations of the  
20 commission governing applications for certificates of public convenience and  
21 necessity and the commission shall [be required to] hold evidentiary hearings on  
22 all petitions so received **as required in subsection 5 of this section**. The  
23 commission shall base its final determination **regarding such petitions** upon  
24 a finding that the commission's designation of water service areas is in the public  
25 interest.

26 [3.] 4. Before becoming effective, all territorial agreements entered into  
27 under the provisions of this section, including any subsequent amendments to  
28 such agreements, or the transfer or assignment of the agreement or any rights or  
29 obligations of any party to an agreement, shall receive the approval of the public  
30 service commission by report and order. Applications for commission approval  
31 shall be made and notice of such filing shall be given to other water suppliers  
32 pursuant to the rules and regulations of the commission governing applications  
33 for certificates of public convenience and necessity. Unless otherwise ordered by  
34 the commission for good cause shown, the commission shall rule on such  
35 applications not later than one hundred twenty days after the application is  
36 properly filed with the secretary of the commission.

37 [4.] 5. The commission shall hold evidentiary hearings to determine  
38 whether such territorial agreements should be approved or disapproved, **except**  
39 **that in those instances where the matter is resolved by a stipulation**  
40 **and agreement submitted to the commission by all the parties, such**  
41 **hearings may be waived by agreement of the parties**. The commission  
42 may approve the application if it [shall after hearing determine] **determines**  
43 that approval of the territorial agreement in total is not detrimental to the public  
44 interest. Review of commission decisions under this section shall be governed by  
45 the provisions of sections 386.500 to 386.550, RSMo.

46 [5.] 6. Commission approval of any territorial agreement entered into  
47 under the provisions of this section shall in no way affect or diminish the rights  
48 and duties of any water supplier not a party to the agreement to provide service  
49 within the boundaries designated in such territorial agreement. In the event any  
50 water corporation which is not a party to the territorial agreement and which is  
51 subject to the jurisdiction, control and regulation of the commission under

52 chapters 386, RSMo, and 393, RSMo, has sought or hereafter seeks authorization  
53 from the commission to sell and distribute water or construct, operate and  
54 maintain water supply facilities within the boundaries designated in any such  
55 territorial agreement, the commission, in making its determination regarding  
56 such requested authority, shall give no consideration or weight to the existence  
57 of any such territorial agreement and any actual rendition of retail water supply  
58 services by any of the parties to such territorial agreement will not preclude the  
59 commission from granting the requested authority.

60 [6.] 7. The commission shall have jurisdiction to entertain and hear  
61 complaints involving any commission-approved territorial agreement. Such  
62 complaints shall be brought and prosecuted in the same manner as other  
63 complaints before the commission. [After hearing, if] **The commission shall**  
64 **hold an evidentiary hearing regarding such complaints, except that in**  
65 **those instances where the matter is resolved by a stipulation and**  
66 **agreement submitted to the commission by all the parties, such**  
67 **hearings may be waived by agreement of the parties.** If the commission  
68 determines that [the] a territorial agreement [is not] **that is the subject of a**  
69 **complaint is no longer** in the public interest, it shall have the authority to  
70 suspend or revoke the territorial agreement. If the commission determines that  
71 the territorial agreement is still in the public interest, such territorial agreement  
72 shall remain in full force and effect. Except as provided in this section, nothing  
73 in this section shall be construed as otherwise conferring upon the commission  
74 jurisdiction over the service, rates, financing, accounting, or management of any  
75 public water supply district or municipally owned utility, or to amend, modify, or  
76 otherwise limit the rights of public water supply districts to provide service as  
77 otherwise provided by law.

78 [7.] 8. Notwithstanding the provisions of section 386.410, RSMo, the  
79 commission shall by rule set a schedule of fees based upon its costs in reviewing  
80 proposed territorial agreements for approval or disapproval. Responsibility for  
81 payment of the fees shall be that of the parties to the proceeding as ordered by  
82 the commission in each case. The fees shall be paid to the director of revenue  
83 who shall remit such payments to the state treasurer. The state treasurer shall  
84 credit such payments to the public service commission fund, or its successor fund,  
85 as established in section 33.571, RSMo. Nothing in this section shall be  
86 construed as otherwise conferring upon the commission jurisdiction over the

87 service, rates, financing, accounting or management of any public water supply  
88 district or municipally owned utility and except as provided in this section,  
89 nothing shall affect the rights, privileges or duties of public water supply  
90 districts, water corporations subject to public service commission jurisdiction or  
91 municipally owned utilities.

92 **9. Notwithstanding any other provisions of this section, the**  
93 **commission may hold a hearing regarding any application, complaint**  
94 **or petition filed under this section upon its own motion.**

394.312. 1. Competition to provide retail electric service, as between rural  
2 electric cooperatives, electrical corporations and municipally owned utilities may  
3 be displaced by written territorial agreements, but only to the extent hereinafter  
4 provided for in this section.

5 2. Such territorial agreements shall specifically designate the boundaries  
6 of the electric service area of each electric service supplier subject to the  
7 agreement, any and all powers granted to a rural electric cooperative by a  
8 municipality, pursuant to the agreement, to operate within the corporate  
9 boundaries of that municipality, notwithstanding the provisions of section 394.020  
10 and of section 394.080 to the contrary, and any and all powers granted to a  
11 municipally owned utility, pursuant to the agreement, to operate in areas beyond  
12 the corporate municipal boundaries of its municipality.

13 3. Where the parties cannot agree **upon the boundaries of the**  
14 **electric service areas that are to be set forth in the agreement**, they may,  
15 by mutual consent of all parties involved, petition the public service commission  
16 to designate the boundaries of the electric service areas to be served by each  
17 party and such designations by the commission shall be binding on all such  
18 parties. Petitions shall be made pursuant to the rules and regulations of the  
19 commission governing applications for certificates of public convenience and  
20 necessity and the commission shall [be required to] hold evidentiary hearings on  
21 all petitions so received **as required in subsection 5 of this section**. The  
22 commission shall base its final determination **regarding such petitions** upon  
23 a finding that the commission's designation of electric service areas is in the  
24 public interest.

25 [3.] 4. The provisions of sections 386.310, RSMo, and 393.106, RSMo, and  
26 sections 394.160 and 394.315 to the contrary notwithstanding, before becoming  
27 effective, all territorial agreements entered into under the provisions of this

28 section, including any subsequent amendments to such agreements, or the  
29 transfer or assignment of the agreement or any rights or obligations of any party  
30 to an agreement, shall receive the approval of the public service commission by  
31 report and order. Applications for commission approval shall be made and notice  
32 of such filing shall be given to other electrical suppliers pursuant to the rules and  
33 regulations of the commission governing applications for certificates of public  
34 convenience and necessity. Unless otherwise ordered by the commission for good  
35 cause shown, the commission shall rule on such applications not later than one  
36 hundred twenty days after the application is properly filed with the secretary of  
37 the commission.

38 [4.] 5. The commission shall hold evidentiary hearings to determine  
39 whether such territorial agreements should be approved or disapproved, **except**  
40 **that in those instances where the matter is resolved by a stipulation**  
41 **and agreement submitted to the commission by all the parties such**  
42 **hearings may be waived by agreement of the parties.** The commission  
43 may approve the application if it [shall after hearing determine] **determines**  
44 that approval of the territorial agreement in total is not detrimental to the public  
45 interest. Review of commission decisions under this section shall be governed by  
46 the provisions of sections 386.500 to 386.550, RSMo.

47 [5.] 6. Commission approval of any territorial agreement entered into  
48 under the provisions of this section shall in no way affect or diminish the rights  
49 and duties of any supplier not a party to the agreement or of any electrical  
50 corporation authorized by law to provide service within the boundaries designated  
51 in such territorial agreement. In the event any electrical corporation which is not  
52 a party to the territorial agreement and which is subject to the jurisdiction,  
53 control and regulation of the commission under chapters 386, RSMo, and 393,  
54 RSMo, has heretofore sought or hereafter seeks authorization from the  
55 commission to render electric service or construct, operate and maintain electric  
56 facilities within the boundaries designated in any such territorial agreement, the  
57 commission, in making its determination regarding such requested authority,  
58 shall give no consideration or weight to the existence of any such territorial  
59 agreement and any actual rendition of retail electric service by any of the parties  
60 to such territorial agreement will not preclude the commission from granting the  
61 requested authority.

62 [6.] 7. The commission shall have jurisdiction to entertain and hear

63 complaints involving any commission-approved territorial agreement. Such  
64 complaints shall be brought and prosecuted in the same manner as other  
65 complaints before the commission. [After hearing, if] **The commission shall**  
66 **hold an evidentiary hearing regarding such complaints, except that in**  
67 **those instances where the matter is resolved by a stipulation and**  
68 **agreement submitted to the commission by all the parties, such**  
69 **hearings may be waived by agreement of the parties. If the commission**  
70 determines that [the] a territorial agreement [is not] **that is the subject of a**  
71 **complaint is no longer** in the public interest, it shall have the authority to  
72 suspend or revoke the territorial agreement. If the commission determines that  
73 the territorial agreement is still in the public interest, such territorial agreement  
74 shall remain in full force and effect. Except as provided in this section, nothing  
75 in this section shall be construed as otherwise conferring upon the commission  
76 jurisdiction over the service, rates, financing, accounting, or management of any  
77 rural electric cooperative or municipally owned utility, or to amend, modify, or  
78 otherwise limit the rights of electrical suppliers to provide service as otherwise  
79 provided by law.

80 [7.] **8.** Notwithstanding the provisions of section 386.410, RSMo, the  
81 commission shall by rule set a schedule of fees based upon its costs in reviewing  
82 proposed territorial agreements for approval or disapproval. Responsibility for  
83 payment of the fees shall be that of the parties to the proceeding as ordered by  
84 the commission in each case. The fees shall be paid to the director of revenue  
85 who shall remit such payments to the state treasurer. The state treasurer shall  
86 credit such payments to the public service commission fund, or its successor fund,  
87 as established in section 33.571, RSMo. Nothing in this section shall be  
88 construed as otherwise conferring upon the commission jurisdiction over the  
89 service, rates, financing, accounting or management of any rural electric  
90 cooperative or municipally owned utility and except as provided in this section  
91 nothing shall affect the rights, privileges or duties of rural electric cooperatives,  
92 electrical corporations or municipally owned utilities.

93 **9. Notwithstanding any other provisions of this section, the**  
94 **commission may hold a hearing regarding any application, complaint**  
95 **or petition filed under this section upon its own motion.**

516.090. Nothing contained in any statute of limitation shall extend to  
2 any lands given, granted, sequestered, or appropriated to any public, pious, or

3 charitable use, or to any lands belonging to this state. This section shall be  
4 construed to prohibit any judgment granting adverse possession to a claimant  
5 where the defendant possesses an interest in land described in a recorded deed  
6 and is a public utility as defined in section 386.020, RSMo, **or is a rural**  
7 **electric cooperative as defined in chapter 394, RSMo, or is an**  
8 **organization operating under section 394.200, RSMo.**

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Bill

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