

SENATE SUBSTITUTE  
FOR  
HOUSE COMMITTEE SUBSTITUTE  
FOR  
HOUSE BILL NO. 1717

AN ACT

To repeal sections 393.1000, 393.1003, and 393.1006, RSMo, and to enact in lieu thereof six new sections relating to water systems serving the public.

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BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF MISSOURI,  
AS FOLLOWS:

1           Section A. Sections 393.1000, 393.1003, and 393.1006, RSMo,  
2 are repealed and six new sections enacted in lieu thereof, to be  
3 known as sections 386.267, 393.1000, 393.1003, 393.1006,  
4 393.1007, and 640.136, to read as follows:

5           386.267. 1. Subject to the requirements of this section,  
6 any water or sewer corporation may file, and the commission shall  
7 approve, revenue stabilization rate schedules authorizing  
8 periodic rate adjustments outside of general rate proceedings to  
9 ensure that the revenues actually collected by the water or sewer  
10 corporation do not vary from the revenues authorized in the  
11 corporation's last general rate proceeding due to the following  
12 factors:

13           (1) For sewer corporations, any revenue variation due to  
14 increases or decreases in residential and commercial usage;

15           (2) For water corporations, any revenue variation due to  
16 increases or decreases in residential, commercial, public

1 authority, and sale for resale customer usage.

2 2. The water or sewer corporation may, at its sole  
3 election, include provisions in the revenue stabilization rate  
4 schedules that account and adjust for revenue variations based  
5 either upon variations in the average revenue per customer for  
6 each applicable customer class or based on variations in overall  
7 revenue for each applicable customer class by tariff district.  
8 Such basis shall be used consistently for each customer class and  
9 for the entire period that the revenue stabilization rate  
10 schedules remain in effect. Revenue variations between general  
11 rate proceedings associated with commission approved surcharges,  
12 including infrastructure system replacement surcharges approved  
13 under sections 393.1000 to 393.1007 and environmental costs  
14 adjustments approved under subsection 2 of section 386.266, the  
15 purchase or sale of utility assets, or the loss or addition of  
16 utility customers shall be excluded from any adjustments made  
17 under the revenue stabilization rate schedules.

18 3. The filings made on and after the first anniversary of  
19 the revenue stabilization adjustment effective date shall include  
20 a reconciliation component that will compare the effective  
21 revenue stabilization adjustment revenues to the actual revenues.  
22 The difference between the two shall be included in the revenue  
23 stabilization adjustment calculation.

24 4. Within thirty days of the anniversary date of the  
25 revenue stabilization rate schedules becoming effective and  
26 within thirty days of each annual anniversary date thereafter,  
27 the water or sewer corporation shall file revised rate schedules  
28 to return to or collect from each applicable customer class over

1 the next annual period the difference between the revenues billed  
2 during the preceding annual period and the revenues authorized in  
3 the corporation's most recent general rate proceeding. For  
4 residential customers, any annual rate increase resulting from  
5 the revised rate schedules, combined with any quarterly  
6 increases, shall not be designed to exceed a per customer average  
7 of five dollars per month, provided that any revenue deficiency  
8 not recovered because of this limitation may be deferred, at a  
9 carrying cost each month equal to the corporation's net of tax  
10 cost of capital, for recovery in a subsequent year or in the  
11 corporation's next general rate or complaint proceeding. In each  
12 subsequent general rate proceeding, the per customer monthly  
13 limitation provided for under this subsection shall be adjusted  
14 up or down by a percentage amount equal to the net percentage  
15 increase or decrease in the consumer price index for all urban  
16 customers since the revenue stabilization rate schedules first  
17 went into effect. The per customer monthly limitation shall also  
18 be adjusted upward by an amount equal to any decrease in the  
19 fixed monthly customer charge for residential customers that may  
20 be approved by the commission in such general rate proceeding.

21 5. Any revenue stabilization rate schedule or revised rate  
22 schedule filed by a water or sewer corporation shall become  
23 effective within thirty days. The commission shall review such  
24 rate schedules for the exclusive purpose of:

25 (1) Determining whether the revenue per customer or revenue  
26 per customer class used in the rate schedules are consistent with  
27 the revenue per customer or revenue per customer class and  
28 billing determinates used to set rates in the water or sewer

1 corporation's most recent general rate proceeding;

2 (2) Determining whether any subsequent revisions to such  
3 rate schedules accurately reflect the difference between the  
4 revenues billed during the period under review and the revenues  
5 authorized in the corporation's most recent general rate  
6 proceeding;

7 (3) Ordering any adjustments to the water or sewer  
8 corporation's next revenue stabilization rate schedule filing  
9 that may be necessary to achieve these outcomes. Any such order  
10 making adjustments to the stabilization rate schedule shall be  
11 effective no later than thirty days after the date of issuance of  
12 such order.

13 6. Between each annual filing of revised revenue  
14 stabilization rate schedules, the water or sewer corporation may  
15 also make quarterly adjustments to reflect differences between  
16 the revenues billed during the prior quarterly period and the  
17 revenues authorized in the corporation's most recent general rate  
18 proceeding, provided such quarterly adjustments shall be made in  
19 a consistent manner each quarter for the entire period that the  
20 revenue stabilization rate schedules remain in effect. Such  
21 quarterly adjustments shall also be made on an interim basis,  
22 shall become effective within ten business days, and shall be  
23 subject to an overall annual reconciliation at the time the water  
24 or sewer corporation makes its next annual revenue stabilization  
25 rate filing.

26 7. Whenever a water or sewer corporation has a subsequent  
27 general rate proceeding, its revenue stabilization rate schedules  
28 shall be updated to reflect the revenue per customer or revenue

1 per customer class amounts used to establish rates in such  
2 general rate proceeding.

3 8. A water or sewer corporation may terminate such revenue  
4 stabilization rate schedules effective on the next anniversary  
5 date of when such schedules first became effective, provided that  
6 the commission shall order any rate adjustments necessary to  
7 return to or recover from customers the difference between the  
8 revenues billed during the last annual period and the revenues  
9 authorized in the corporation's most recently completed general  
10 rate proceeding.

11 9. A water or sewer corporation may file its initial  
12 revenue stabilization rate schedules under subsection 1 of this  
13 section at any time, provided that the commission shall not be  
14 required to process and approve such initial schedules for more  
15 than three corporations in any one month during the first six  
16 months following the effective date of this section. Such  
17 initial rate schedules shall be processed by the commission in  
18 the same order in which they were filed.

19 10. The commission may take into account any change in  
20 business risk to the corporation resulting from implementation of  
21 the adjustment mechanism in setting the corporation's allowed  
22 return on equity in any general rate proceeding, in addition to  
23 any other changes in business risk experienced by the  
24 corporation.

25 11. No later than December 31, 2026, the commission shall  
26 prepare and file with the secretary of the senate and the chief  
27 clerk of the house of representatives a report on what impact, if  
28 any, the implementation of revenue stabilization rate schedules

1 have had on water and sewer corporations and their customers.  
2 Participating water and sewer corporations shall cooperate in  
3 good faith to provide the data necessary for the preparation of  
4 the report required by this subsection.

5 12. This section shall expire on December 31, 2036. Upon  
6 expiration, the commission shall order any rate adjustments  
7 necessary to return to, or recover from, customers the difference  
8 between the revenues billed during the last annual period or  
9 portion thereof prior to termination and the revenues authorized  
10 in the corporation's most recently completed general rate  
11 proceeding.

12 393.1000. As used in sections 393.1000 to [393.1006]  
13 393.1007, the following terms mean:

14 (1) "Appropriate pretax revenues", the revenues necessary  
15 to produce net operating income equal to:

16 (a) The water corporation's weighted cost of capital  
17 multiplied by the net original cost of eligible infrastructure  
18 system replacements, including recognition of accumulated  
19 deferred income taxes and accumulated depreciation associated  
20 with eligible infrastructure system replacements which are  
21 included in a currently effective ISRS; and

22 (b) Recover state, federal, and local income or excise  
23 taxes applicable to such income; and

24 (c) Recover all other ISRS costs;

25 (2) "Commission", the Missouri public service commission;

26 (3) "Eligible infrastructure system replacements", water  
27 utility plant projects that:

28 (a) Replace or extend the useful life of existing

- 1 infrastructure;
- 2 (b) Are in service and used and useful;
- 3 (c) Do not increase revenues by directly connecting the  
4 infrastructure replacement to new customers; and
- 5 (d) Were not included in the water corporation's rate base  
6 in its most recent general rate case;
- 7 (4) "ISRS", infrastructure system replacement surcharge;
- 8 (5) "ISRS costs", depreciation expenses and property taxes  
9 that will be due within twelve months of the ISRS filing;
- 10 (6) "ISRS revenues", revenues produced through an ISRS,  
11 exclusive of revenues from all other rates and charges;
- 12 (7) "Water corporation", every corporation, company,  
13 association, joint stock company or association, partnership, and  
14 person, their lessees, trustees, or receivers appointed by any  
15 court whatsoever, owning, operating, controlling, or managing any  
16 plant or property, dam or water supply, canal, or power station,  
17 distributing or selling for distribution, or selling or supplying  
18 for gain any water to more than ten thousand customers;
- 19 (8) "Water utility plant projects" may consist only of the  
20 following:
- 21 (a) Mains, and associated valves and hydrants, installed as  
22 replacements for existing facilities that have worn out or are in  
23 deteriorated condition;
- 24 (b) Main cleaning and relining projects; and
- 25 (c) Facilities relocations required due to construction or  
26 improvement of a highway, road, street, public way, or other  
27 public work by or on behalf of the United States, this state, a  
28 political subdivision of this state, or another entity having the

1 power of eminent domain provided that the costs related to such  
2 projects have not been reimbursed to the water corporation.

3 393.1003. 1. Notwithstanding any provisions of chapter 386  
4 and this chapter to the contrary, as of August 28, 2003, a water  
5 corporation providing water service in a county with a charter  
6 form of government and with more than one million inhabitants may  
7 file a petition and proposed rate schedules with the commission  
8 to establish or change ISRS rate schedules that will allow for  
9 the adjustment of the water corporation's rates and charges to  
10 provide for the recovery of costs for eligible infrastructure  
11 system replacements made in such county with a charter form of  
12 government and with more than one million inhabitants; provided  
13 that an ISRS, on an annualized basis, must produce ISRS revenues  
14 of at least one million dollars but not in excess of ten percent  
15 of the water corporation's base revenue level approved by the  
16 commission in the water corporation's most recent general rate  
17 proceeding. An ISRS and any future changes thereto shall be  
18 calculated and implemented in accordance with the provisions of  
19 sections 393.1000 to 393.1006. ISRS revenues shall be subject to  
20 refund based upon a finding and order of the commission, to the  
21 extent provided in subsections 5 and 8 of section 393.1006.

22 2. The commission shall not approve an ISRS for a water  
23 corporation in a county with a charter form of government and  
24 with more than one million inhabitants that has not had a general  
25 rate proceeding decided or dismissed by issuance of a commission  
26 order within the past three years, unless the water corporation  
27 has filed for or is the subject of a new general rate proceeding.

28 3. In no event shall a water corporation collect an ISRS



1 for a period exceeding three years unless the water corporation  
2 has filed for or is the subject of a new general rate proceeding;  
3 provided that the ISRS may be collected until the effective date  
4 of new rate schedules established as a result of the new general  
5 rate proceeding, or until the subject general rate proceeding is  
6 otherwise decided or dismissed by issuance of a commission order  
7 without new rates being established.

8 4. Beginning January 1, 2017, a water corporation that  
9 files a petition to establish or change ISRS rate schedules under  
10 this section shall design and implement a voluntary lead testing  
11 program for its residential customers that are subject to ISRS  
12 rate schedules, with priority given to requests involving  
13 customer-owned lead service lines.

14 393.1006. 1. (1) At the time that a water corporation  
15 files a petition with the commission seeking to establish or  
16 change an ISRS, it shall submit proposed ISRS rate schedules and  
17 its supporting documentation regarding the calculation of the  
18 proposed ISRS with the petition, statement of compliance with  
19 section 393.1007, and shall serve the office of the public  
20 counsel with a copy of its petition, its proposed rate schedules  
21 and its supporting documentation.

22 (2) Upon the filing of a petition, and any associated rate  
23 schedules, seeking to establish or change an ISRS, the commission  
24 shall publish notice of the filing.

25 2. (1) When a petition, along with any associated proposed  
26 rate schedules[, ] and statement of compliance with section  
27 393.1007 is filed pursuant to the provisions of sections 393.1000  
28 to [393.1006] 393.1007, the commission shall conduct an

1 examination of the proposed ISRS.

2 (2) The staff of the commission may examine information of  
3 the water corporation to confirm that the underlying costs are in  
4 accordance with the provisions of sections 393.1000 to [393.1006]  
5 393.1007, and to confirm proper calculation of the proposed  
6 charge, and may submit a report regarding its examination to the  
7 commission not later than sixty days after the petition is filed.  
8 No other revenue requirement or ratemaking issues shall be  
9 examined in consideration of the petition or associated proposed  
10 rate schedules filed pursuant to the provisions of sections  
11 393.1000 to [393.1006] 393.1007.

12 (3) The commission may hold a hearing on the petition and  
13 any associated rate schedules and shall issue an order to become  
14 effective not later than one hundred twenty days after the  
15 petition is filed.

16 (4) If the commission finds that a petition complies with  
17 the requirements of sections 393.1000 to [393.1006] 393.1007, the  
18 commission shall enter an order authorizing the water corporation  
19 to impose an ISRS that is sufficient to recover appropriate  
20 pretax revenues, as determined by the commission pursuant to the  
21 provisions of sections 393.1000 to [393.1006] 393.1007.

22 3. A water corporation may effectuate a change in its rate  
23 pursuant to this section no more often than two times every  
24 twelve months.

25 4. In determining the appropriate pretax revenues, the  
26 commission shall consider only the following factors:

27 (1) The current state, federal, and local income or excise  
28 tax rates;

1           (2) The water corporation's actual regulatory capital  
2 structure as determined during the most recent general rate  
3 proceeding of the water corporation;

4           (3) The actual cost rates for the water corporation's debt  
5 and preferred stock as determined during the most recent general  
6 rate proceeding of the water corporation;

7           (4) The water corporation's cost of common equity as  
8 determined during the most recent general rate proceeding of the  
9 water corporation;

10          (5) The current property tax rate or rates applicable to  
11 the eligible infrastructure system replacements;

12          (6) The current depreciation rates applicable to the  
13 eligible infrastructure system replacements;

14          (7) In the event information called for in subdivisions  
15 (2), (3), and (4) is unavailable and the commission is not  
16 provided with such information on an agreed-upon basis, the  
17 commission shall refer to the testimony submitted during the most  
18 recent general rate proceeding of the water corporation and use,  
19 in lieu of any such unavailable information, the recommended  
20 capital structure, recommended cost rates for debt and preferred  
21 stock, and recommended cost of common equity that would produce  
22 the average weighted cost of capital based upon the various  
23 recommendations contained in such testimony.

24          5. (1) An ISRS shall be calculated based upon the amount  
25 of ISRS costs that are eligible for recovery during the period in  
26 which the surcharge will be in effect and upon the applicable  
27 customer class billing determinants utilized in designing the  
28 water corporation's customer rates in its most recent general

1 rate proceeding. The commission shall, however, only allow such  
2 surcharges to apply to classes of customers receiving a benefit  
3 from the subject water utility plant projects or shall prorate  
4 the surcharge according to the benefit received by each class of  
5 customers; provided that the ISRS shall be applied in a manner  
6 consistent with the customer class cost-of-service study  
7 recognized by the commission in the water corporation's most  
8 recent general rate proceeding, if applicable, and with the rate  
9 design methodology utilized to develop the water corporation's  
10 rates resulting from its most recent general rate proceeding.

11 (2) At the end of each twelve-month calendar period that an  
12 ISRS is in effect, the water corporation shall reconcile the  
13 differences between the revenues resulting from an ISRS and the  
14 appropriate pretax revenues as found by the commission for that  
15 period and shall submit the reconciliation and a proposed ISRS  
16 adjustment to the commission for approval to recover or refund  
17 the difference, as appropriate, through adjustment of an ISRS.

18 6. (1) A water corporation that has implemented an ISRS  
19 pursuant to the provisions of sections 393.1000 to [393.1006]  
20 393.1007 shall file revised rate schedules to reset the ISRS to  
21 zero when new base rates and charges become effective for the  
22 water corporation following a commission order establishing  
23 customer rates in a general rate proceeding that incorporates in  
24 the utility's base rates subject to subsections 8 and 9 of this  
25 section eligible costs previously reflected in an ISRS.

26 (2) Upon the inclusion in a water corporation's base rates  
27 subject to subsections 8 and 9 of this section of eligible costs  
28 previously reflected in an ISRS, the water corporation shall

1 immediately thereafter reconcile any previously unreconciled ISRS  
2 revenues as necessary to ensure that revenues resulting from the  
3 ISRS match as closely as possible the appropriate pretax revenues  
4 as found by the commission for that period.

5 7. A water corporation's filing of a petition to establish  
6 or change an ISRS pursuant to the provisions of sections 393.1000  
7 to ~~[393.1006]~~ 393.1007 shall not be considered a request for a  
8 general increase in the water corporation's base rates and  
9 charges.

10 8. Commission approval of a petition, and any associated  
11 rate schedules, to establish or change an ISRS pursuant to the  
12 provisions of sections 393.1000 to ~~[393.1006]~~ 393.1007 shall in  
13 no way be binding upon the commission in determining the  
14 ratemaking treatment to be applied to eligible infrastructure  
15 system replacements during a subsequent general rate proceeding  
16 when the commission may undertake to review the prudence of such  
17 costs. In the event the commission disallows, during a  
18 subsequent general rate proceeding, recovery of costs associated  
19 with eligible infrastructure system replacements previously  
20 included in an ISRS, the water corporation shall offset its ISRS  
21 in the future as necessary to recognize and account for any such  
22 overcollections.

23 9. Nothing contained in sections 393.1000 to ~~[393.1006]~~  
24 393.1007 shall be construed to impair in any way the authority of  
25 the commission to review the reasonableness of the rates or  
26 charges of a water corporation, including review of the prudence  
27 of eligible infrastructure system replacements made by a water  
28 corporation, pursuant to the provisions of section 386.390.

1           10. The commission shall have authority to promulgate rules  
2 for the implementation of sections 393.1000 to [393.1006]  
3 393.1007, but only to the extent such rules are consistent with,  
4 and do not delay the implementation of, the provisions of  
5 sections 393.1000 to [393.1006] 393.1007. Any rule or portion of  
6 a rule, as that term is defined in section 536.010, that is  
7 created under the authority delegated in this section shall  
8 become effective only if it complies with and is subject to all  
9 of the provisions of chapter 536 and, if applicable, section  
10 536.028. This section and chapter 536 are nonseverable and if  
11 any of the powers vested with the general assembly pursuant to  
12 chapter 536 to review, to delay the effective date, or to  
13 disapprove and annul a rule are subsequently held  
14 unconstitutional, then the grant of rulemaking authority and any  
15 rule proposed or adopted after August 28, 2003, shall be invalid  
16 and void.

17           393.1007. 1. In order for a water corporation to file a  
18 petition with the commission to establish or change an ISRS, such  
19 corporation shall, by January 1, 2017, file with the commission a  
20 statement confirming it uses a pre-qualification process for  
21 contractors seeking to participate in competitive bidding to  
22 install ISRS-eligible water utility plant projects whose  
23 contractor costs are estimated to be greater than one hundred  
24 thousand dollars. Under the pre-qualification process, the water  
25 corporation may specify certain eligibility requirements  
26 typically accepted by the industry, including but not limited to,  
27 experience, performance criteria, safety policies, and insurance  
28 requirements to be met by any contractor seeking to participate

1 in competitive bidding to install ISRS-eligible water utility  
2 plant projects whose contractor costs are estimated to be greater  
3 than one hundred thousand dollars. Contractors that meet the  
4 pre-qualification criteria set by the water corporation shall be  
5 eligible to participate in the competitive bidding process for  
6 installing ISRS-eligible water utility plant projects whose  
7 contractor costs are estimated to be greater than one hundred  
8 thousand dollars, and the contractor making the overall lowest  
9 and best bid for installing the ISRS-eligible water utility plant  
10 project shall be awarded such contract. The water corporation  
11 shall file, by January 1, 2017, a statement with the commission  
12 confirming that it has in place a pre-qualification process for  
13 the competitive bidding of ISRS-eligible water utility plant  
14 projects, and that such process conforms with the requirements of  
15 this section. The commission shall have the authority to verify  
16 the statement to ensure compliance with this section. After  
17 January 1, 2017, the water corporation shall submit with each  
18 petition filing to establish or change an ISRS a statement  
19 confirming that it is using a competitive bidding process for  
20 hiring pre-qualified contractors to install ISRS-eligible water  
21 utility plant projects whose contractor costs are estimated to  
22 be greater than one hundred thousand dollars, and that such  
23 process conforms with the requirements set forth in this section.  
24 The commission shall have the authority to verify the statement  
25 to ensure compliance with this section. Nothing in this section  
26 shall be construed as requiring any water corporation to use  
27 third parties instead of its own employees to perform such work,  
28 to use a pre-qualified contractor or competitive bidding process

1 in the case of an emergency project, or to terminate any existing  
2 contract with a contractor prior to its expiration.

3 2. By December 31, 2018, and annually thereafter, the  
4 commission shall submit a report to the general assembly on the  
5 effects of this section, including water corporation compliance,  
6 potential legislative action regarding this section, the costs of  
7 installing ISRS-eligible water utility plant projects prior to  
8 the implementation of this section compared to after the  
9 implementation of this section, and any other information  
10 regarding the processes established under this section that the  
11 commission deems necessary.

12 3. This section shall expire on December 31, 2022.

13 640.136. 1. Any public water system, as defined in section  
14 640.102, or public water supply district, as defined in chapter  
15 247, which intends to make modifications to fluoridation of its  
16 water supply shall notify the department of natural resources,  
17 the department of health and senior services, and its customers  
18 of its intentions at least ninety days prior to any vote on the  
19 matter. The public water system or public water supply district  
20 shall notify its customers via radio, television, newspaper,  
21 regular mail, electronic means, or any combination of  
22 notification methods to most effectively notify customers at  
23 least ninety days prior to any meeting at which the vote will  
24 occur. Any public water system or public water supply district  
25 that violates the notification requirements of this section shall  
26 reinstate fluoridation of its water supply until proper  
27 notification is provided under the provisions of this section.

28 2. In the case of an investor-owned water system, the



1 entity calling for the discussion of modifications to  
2 fluoridation shall be responsible for the provisions of this  
3 section.