

FIRST REGULAR SESSION
SENATE COMMITTEE SUBSTITUTE FOR
SENATE BILL NO. 145
99TH GENERAL ASSEMBLY

Reported from the Committee on Commerce, Consumer Protection, Energy and the Environment, March 9, 2017, with recommendation that the Senate Committee Substitute do pass.

0664S.04C

ADRIANE D. CROUSE, Secretary.

AN ACT

To amend chapter 393, RSMo, by adding thereto one new section relating to very small water and sewer corporations.

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

Section A. Chapter 393, RSMo, is amended by adding thereto one new section, to be known as section 393.323, to read as follows:

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

(1) "Eligible lending institution", a financial institution that is eligible to make commercial or agricultural loans, or discount or purchase such loans, and is a public depository of state funds or obtains its funds through the issuance of obligations, either directly or through a related entity;

(2) "Very small sewer corporation", a sewer corporation that provides sewer service to five hundred or fewer customer connections;

(3) "Very small water corporation", a water corporation that provides water service to five hundred or fewer customer connections.

2. The commission shall not grant a certificate of convenience and necessity under subsection 1 of section 393.170 to any very small sewer corporation or very small water corporation until the applicant seeking such certificate furnishes evidence of its operational and financial feasibility. In addition to other requirements the commission may establish by rule, the applicant shall provide a feasibility study that includes plans and specifications for the sewer or water system, the estimated cost of construction and operation of the system during the first three years of operation, plans for financing, proposed rates

21 and charges, and an estimate of the number of customers, revenues,
22 and expenses. If the applicant proposes to acquire or construct the
23 water or sewer system through the issuance of debt financing, and such
24 financing is not provided by an eligible lending institution, the
25 applicant shall demonstrate that the terms and conditions of such debt
26 financing are reasonable. In addition to other requirements the
27 commission may establish by rule, the applicant for a certificate of
28 convenience and necessity for a very small water corporation or very
29 small sewer corporation shall demonstrate that it has the capability to
30 construct and operate such a water or sewer system, including evidence
31 from the Missouri department of natural resources and local
32 authorities, if applicable, that it has all necessary construction and
33 operating permits and licenses. In issuing a certificate of convenience
34 and necessity to a very small sewer corporation or very small water
35 corporation, the commission may establish conditions that are
36 reasonable in the circumstances, including a requirement that the very
37 small sewer corporation or very small water corporation submit to a
38 periodic review of the reasonableness of its rates, no less frequently
39 than once every five years.

40 3. In establishing the rates for service rendered by a very small
41 sewer corporation or very small water corporation, the commission
42 shall approve for recovery in rates only those operating and capital
43 costs that are prudently and reasonably incurred. The very small sewer
44 corporation or very small water corporation shall have the burden of
45 establishing the prudence of its operating and capital costs. In
46 determining the prudence of any operating or capital cost, the
47 commission may consider whether such cost was determined by a
48 competitive bid process. In addition, in determining the prudence of
49 a capital project, the commission may consider whether such project
50 was reviewed and approved by the Missouri department of natural
51 resources.

52 4. No entity may acquire either the stock or the assets of a very
53 small sewer corporation or very small water corporation without first
54 obtaining approval from the commission. In the event that an entity
55 seeks approval from the commission to acquire either the stock or the
56 assets of a very small sewer corporation or very small water
57 corporation, the commission shall not approve such acquisition unless

58 it finds that such acquisition is not detrimental to the public interest.
59 In making that finding, the commission shall examine the operational
60 and financial capability of the acquiring entity. If the acquiring entity
61 proposes to issue debt to finance all or a part of the acquisition and
62 such debt is not being provided by an eligible lending institution, the
63 acquiring entity, as part of its application, shall provide evidence of the
64 reasonableness of the terms and conditions of such debt financing.

65 5. The commission shall have the authority to promulgate rules
66 to implement the provisions of this section. Any rule or portion of a
67 rule, as that term is defined in section 536.010 that is created under the
68 authority delegated in this section shall become effective only if it
69 complies with and is subject to all of the provisions of chapter 536, and,
70 if applicable, section 536.028. This section and chapter 536 are
71 nonseverable and if any of the powers vested with the general assembly
72 pursuant to chapter 536, to review, to delay the effective date, or to
73 disapprove and annul a rule are subsequently held unconstitutional,
74 then the grant of rulemaking authority and any rule proposed or
75 adopted after August 28, 2017, shall be invalid and void.

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