

FIRST REGULAR SESSION

SENATE BILL NO. 514

99TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR ONDER.

Read 1st time March 1, 2017, and ordered printed.

ADRIANE D. CROUSE, Secretary.

2242S.011

AN ACT

To repeal sections 71.530, 71.550, 88.251, 88.770, and 88.773, RSMo, and to enact in lieu thereof five new sections relating to utility services.

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

Section A. Sections 71.530, 71.550, 88.251, 88.770, and 88.773, RSMo, are
2 repealed and five new sections enacted in lieu thereof, to be known as sections
3 71.530, 71.550, 88.251, 88.770, and 88.773, to read as follows:

71.530. Any city, town or village may contract with any corporation
2 organized under the laws of Missouri, or doing business as a foreign corporation
3 in the state of Missouri, for the purpose of supplying it with gas, electricity [or],
4 water, **or wastewater and sewerage systems**. The contract may be for any
5 length of time which shall be agreed upon between the city, town or village and
6 the corporation, for a term not to exceed [twenty] **thirty** years. Each contract
7 may be renewed for another period or periods for a term of not more than
8 [twenty] **thirty** years per period. The provisions of this section shall apply to all
9 cities, towns and villages in this state, whether organized by special charter or
10 under the general laws of the state, any provisions in any special charter of any
11 city, town or village in the state to the contrary notwithstanding. [All renewal
12 contracts entered into under the provisions of this section shall be subject to voter
13 approval of the majority of the voters voting on the question, pursuant to the
14 provisions of section 88.251. Every initial contract for such services shall be
15 approved by a majority of the voters of the municipality voting on the
16 question. Nothing herein contained shall be so construed as to prevent the
17 governing body of any city, town or village from contracting with any person,
18 association or corporation for furnishing the city, town or village with gas,

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

19 electricity or water in municipalities where franchises have already been granted
 20 and where gas, electric or water plants and facilities already exist, without a vote
 21 of the people.]

71.550. Before any contract as authorized in section 71.540 shall be
 2 entered into with any private corporation by any incorporated city, town or
 3 village, or cities, towns and villages in this state, said contract shall be approved
 4 by a majority of all the voters voting thereon, **provided that a lease or**
 5 **concession agreement with a corporation shall not require a vote of the**
 6 **people if under such lease or concession agreement, the city, town, or**
 7 **village retains oversight of operations and rate setting methodology**
 8 **and the city, town, or village has the right to terminate the lease or**
 9 **concession agreement if the corporation does not comply with the lease**
 10 **or concession agreement.**

88.251. Each franchise or contract provided for in sections [71.530,]
 2 77.210, 78.190, 78.630, and sections 88.613[,] **and** 88.770[, and 88.773] shall
 3 remain on file with the city clerk for public inspection at least thirty days before
 4 the final passage or adoption thereof. The effective date of such franchise or
 5 contract shall be the earliest date upon which one of the following events occurs:
 6 the bill approving the franchise or contract is signed by the mayor or person
 7 exercising the duties of the mayor's office; the board of aldermen overrides the
 8 mayor's veto; or the conclusion of the next meeting of the board of aldermen when
 9 the mayor has neither signed nor vetoed the bill. Every such franchise or
 10 contract provided for above shall be subject to approval or disapproval of the
 11 voters of such city whenever twenty-five percent of the voters of such city, as
 12 appears from the number of voters who voted for mayor at the last preceding
 13 municipal election, file with the city clerk, within thirty days after the passing
 14 of the franchise or contract, a petition, in the following form, calling for the
 15 submission of the question of approval or disapproval of the grant of the franchise
 16 or contract to the voters of such city at a special election or at a regular
 17 municipal election:

18 To the city clerk of _____

19 We, the undersigned, hereby request the appropriate election authority to
 20 submit the grant of the following franchise or contract to the electors of _____
 21 at a special election or at a regular municipal election.

22 (State nature of franchise or contract.)

23 Upon receipt of such a petition by the city clerk, it shall be the duty of the city

24 clerk to determine whether the petition has presented the question in the form
25 required by this section and whether the petition has been executed in compliance
26 with the terms of subsection 4 of section 115.019. If the petition satisfies the
27 requirements of this section and subsection 4 of section 115.019, the city clerk
28 shall cause the appropriate election authority to give notice of an election and to
29 submit the question of approval or disapproval of the grant of the franchise or
30 contract to the voters at a special election, or at a regular municipal election. Not
31 later than the tenth Tuesday prior to an election, the city clerk shall send to the
32 appropriate election authority a certified copy of the legal notice to be
33 published. The legal notice shall include the particular question to be voted on
34 at such election, the date and time of the election and a sample ballot. The
35 appropriate election authority shall cause legal notice of such election to be
36 published as required in chapter 115. The ballots used when voting upon such
37 franchise or contract shall contain, but not be limited to, the following language:

38 Shall the city of _____ (name of city) enter into the contract to _____
39 (State nature of proposed contract or franchise)?

40 YES NO

41 If you are in favor of the question, place an "X" in the box opposite "YES".
42 If you are opposed to the question, place an "X" in the box opposite "NO".

43 If a majority of the voters voting on that issue vote against such franchise or
44 contract, the same shall no longer be effective on the date the election authority
45 certifies the election results. If a majority of the qualified voters voting on such
46 proposed franchise or contract shall vote in favor thereof, such franchise or
47 contract shall continue to be an effective, valid and binding franchise or contract
48 of the city and shall remain in full force and effect and cannot be repealed or
49 amended. Nothing contained herein shall be interpreted to prohibit the granting
50 of a franchise by the use of the right of initiative petition.

88.770. 1. The board of aldermen may provide for and regulate the
2 lighting of streets and the erection of lamp posts, poles and lights therefor, and
3 may make contracts with any person, association or corporation, either private
4 or municipal, for the lighting of the streets and other public places of the city
5 with gas, electricity or otherwise, except that each initial contract shall be
6 ratified by a majority of the voters of the city voting on the question and any
7 renewal contract or extension shall be subject to voter approval of the majority
8 of the voters voting on the question, pursuant to the provisions of section
9 88.251. The board of aldermen may erect, maintain and operate gas works,

10 electric light works, or light works of any other kind or name, and to erect lamp
11 posts, electric light poles, or any other apparatus or appliances necessary to light
12 the streets, avenues, alleys or other public places, and to supply private lights for
13 the use of the inhabitants of the city and its suburbs, and may regulate the same,
14 and may prescribe and regulate the rates to be paid by the consumers thereof,
15 and may acquire by purchase, donation or condemnation suitable grounds within
16 or without the city upon which to erect such works and the right-of-way to and
17 from such works, and also the right-of-way for laying gas pipes, electric wires
18 under or above the grounds, and erecting posts and poles and such other
19 apparatus and appliances as may be necessary for the efficient operation of such
20 works. The board of aldermen may, in its discretion, grant the right to any
21 person, persons or corporation, to erect such works and lay the pipe, wires, and
22 erect the posts, poles and other necessary apparatus and appliances therefor,
23 upon such terms as may be prescribed by ordinance. Such rights shall not extend
24 for a longer time than twenty years, but may be renewed for another period or
25 periods not to exceed twenty years per period. Every initial grant shall be
26 approved by a majority of the voters of the municipality voting on the question,
27 and each renewal or extension of such rights shall be subject to voter approval of
28 the majority of the voters voting on the question, pursuant to the provisions of
29 section 88.251. Nothing herein contained shall be so construed as to prevent the
30 board of aldermen from contracting with any person, persons or corporation for
31 furnishing the city with gas or electric lights in cities where franchises have
32 already been granted, and where gas or electric light plants already exist, without
33 a vote of the people, except that the board of aldermen may sell, convey,
34 encumber, lease, abolish or otherwise dispose of any public utilities owned by the
35 city including electric light systems, electric distribution systems or transmission
36 lines, or any part of the electric light systems, electric or other heat systems,
37 electric or other power systems, electric or other railways, gas plants, telephone
38 systems, telegraph systems, transportation systems of any kind, waterworks,
39 **wastewater plants, sewerage systems,** equipments and all public utilities not
40 herein enumerated and everything acquired therefor, after first having passed an
41 ordinance setting forth the terms of the sale, conveyance or encumbrance and
42 when ratified by two-thirds of the voters voting on the question, **provided that**
43 **a lease or concession agreement with a person, persons, or corporation**
44 **shall not require a vote of the people if under such lease or concession**
45 **agreement, the city retains oversight of operations and rate setting**

46 **methodology and the city has the right to terminate the lease or**
47 **concession agreement if the person, persons, or corporation does not**
48 **comply with the lease or concession agreement.**

49 2. The ballots shall be substantially in the following form and shall
50 indicate the property, or portion thereof, and whether the same is to be sold,
51 leased or encumbered:

52 Shall _____ (Indicate the property by stating whether electric distribution
53 system, electric transmission lines or waterworks, etc.) be _____ (Indicate
54 whether sold, leased or encumbered.)?

88.773. 1. The board of aldermen may make contracts with any person,
2 association or corporation, either private or municipal, for furnishing the city
3 with water, **wastewater plants and sewerage systems**, and for supplying fire
4 hydrants and public fountains, but no such contract shall be made for a longer
5 time than [twenty] **thirty** years. [Any initial contract must be ratified by a vote
6 of a majority of the voters of the city voting on the question. Any renewal
7 contracts entered into under the provisions of this section shall be subject to voter
8 approval of the majority of the voters voting on the question, pursuant to section
9 88.251.]

10 2. The board of aldermen may also erect, maintain and operate
11 waterworks for the city, **wastewater plants and sewerage systems**, and may
12 regulate the same, may prescribe and regulate the rates to charge to private
13 consumers of water furnished [from] **and wastewater transfer by** such
14 [waterworks] **works**, and may acquire by purchase, donation or condemnation,
15 suitable grounds within or without the city, upon which to erect such works, and
16 the right-of-way to and from such works, and also the right-of-way for laying
17 water pipes **and sewer pipes**, and posts and telephone, telephone exchanges
18 with other cities and towns, telegraph or electric wires and poles, under or above
19 the ground, as may be necessary for the efficient operation of such [waterworks]
20 **works**; all of which shall be done in such manner as shall be prescribed by
21 ordinance; except that the board of aldermen may, in its discretion, grant the
22 right to any person, persons or corporation to erect, maintain and operate
23 waterworks, **wastewater plants, sewerage systems**, and lay pipes, erect poles
24 and telegraph, telephone exchanges with other cities and towns, and other electric
25 wires, under or above ground, as may be necessary for the efficient operation of
26 such works, upon such terms as the board of aldermen may prescribe by
27 ordinance, and in no case shall such right extend for a longer period than

28 [twenty] **thirty** years; except that such right may be renewed for another period
29 or periods not to exceed [twenty] **thirty** years per period. [Every initial grant
30 for such services shall be approved by a majority of voters voting on the
31 question. Every renewal or extension shall be subject to voter approval of the
32 majority of the voters voting on the question, pursuant to the provisions of section
33 88.251. Nothing in this section shall be so construed as to prevent the board of
34 aldermen from contracting with any person, association or corporation for
35 supplying fire hydrants and public fountains, in cities where franchises have
36 already been granted, and where waterworks already exist, without a vote of the
37 people.]

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Bill

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