

SECOND REGULAR SESSION

# SENATE BILL NO. 592

100TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR WHITE.

Pre-filed December 1, 2019, and ordered printed.

ADRIANE D. CROUSE, Secretary.

3132S.02I

## AN ACT

To amend chapter 393, RSMo, by adding thereto four new sections relating to water and sewer infrastructure.

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

Section A. Chapter 393, RSMo, is amended by adding thereto four new sections, to be known as sections 393.1500, 393.1503, 393.1506, and 393.1509, to read as follows:

**393.1500. Sections 393.1500 to 393.1509 shall be known and may be cited as the "Missouri Water and Sewer Infrastructure Act".**

**393.1503. As used in sections 393.1500 to 393.1509, the following terms shall mean:**

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

**(a) The water or sewer corporation's pretax weighted cost of capital multiplied by the net original cost of eligible infrastructure system projects, including recognition of accumulated deferred income taxes and accumulated depreciation associated with eligible infrastructure system projects which are included in a currently effective water and sewer infrastructure rate adjustment implemented pursuant to sections 393.1506 and 393.1509;**

**(b) The state, federal, and local income or excise taxes applicable to such revenues;**

**(c) The depreciation expense applicable to the eligible infrastructure system project; and**

**(d) The property taxes applicable to the eligible infrastructure that will be due within twelve months of the filing of a request to implement a water and sewer infrastructure rate adjustment pursuant**

19 to sections 393.1506 and 393.1509;

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

21 (3) "Eligible infrastructure system projects", water or sewer  
22 utility plant projects that:

23 (a) Replace or extend the useful life of existing infrastructure;

24 (b) Are in service and used and useful;

25 (c) Do not include projects intended solely for customer growth;

26 and

27 (d) The costs of which were not included in the water or sewer  
28 corporation's base rates in its most recent general rate case;

29 (4) "Sewer corporation", the same as defined in section 386.020;

30 (5) "Water and sewer infrastructure rate adjustment" or "WSIRA",  
31 a separate line item rate on a customer's water or sewer bill designed  
32 to recover the costs associated with eligible infrastructure system  
33 projects implemented pursuant to sections 393.1500 to 393.1509;

34 (6) "Water corporation", the same as defined in section 386.020;

35 (7) "Water or sewer utility plant projects", shall consist of the  
36 following:

37 (a) Replacement of or cleaning and relining of existing water  
38 mains and sewer collection system mains, and associated valves,  
39 hydrants, meters, service lines, laterals, sewer taps, curbstops, and  
40 manholes;

41 (b) Replacement of lead mains, lead goosenecks and lead service  
42 lines, and associated valves and meters;

43 (c) Replacement or repainting of storage tanks, pumping  
44 equipment, and lift stations;

45 (d) Replacement of water production plant infrastructure and  
46 sewer treatment plant infrastructure; and

47 (e) Facilities relocations required due to construction or  
48 improvement of a highway, road, street, public way, or other public  
49 work by or on behalf of the United States, this state, a political  
50 subdivision of this state, or another entity having the power of eminent  
51 domain; provided that the costs related to such projects have not been  
52 reimbursed to the water corporation;

53 (8) "WSIRA revenues", revenues produced through  
54 implementation of a WSIRA pursuant to sections 393.1500 to 393.1509,  
55 exclusive of revenues from all other rates and charges.

393.1506. 1. Notwithstanding any provisions of chapter 386 and  
2 this chapter to the contrary, a water or sewer corporation providing  
3 water or sewer service anywhere within the state may file a petition  
4 and proposed rate schedules with the commission to establish or  
5 change a WSIRA that will provide for the recovery of the appropriate  
6 pretax revenues associated with the eligible infrastructure system  
7 projects. In addition, the WSIRA individually, or when combined with  
8 a currently effective ISRS pursuant to subsection 1 of section 393.1003,  
9 shall not produce revenues in excess of fifteen percent of the water or  
10 sewer corporation's base revenue requirement approved by the  
11 commission in the water or sewer corporation's most recent general  
12 rate proceeding; provided, however, that WSIRA revenues attributable  
13 to replacement of lead infrastructure shall not count toward the  
14 program cap. The WSIRA and any future changes thereto shall be  
15 calculated and implemented in accordance with the provisions of  
16 sections 393.1503 to 393.1509. WSIRA revenues shall be subject to  
17 refund based upon a finding and order of the commission, to the extent  
18 provided in subsections 5 and 8 of section 393.1509.

19 2. The commission shall not approve a WSIRA for a water or  
20 sewer corporation that has not had a general rate proceeding decided  
21 or dismissed by issuance of a commission order within the past three  
22 years of the filing of a petition pursuant to this section, unless the  
23 water or sewer corporation has filed for or is the subject of a new  
24 general rate proceeding.

25 3. In no event shall a water or sewer corporation collect a WSIRA  
26 for a period exceeding three years unless the water or sewer  
27 corporation has filed for or is the subject of a new general rate  
28 proceeding; provided that the WSIRA may be collected until the  
29 effective date of new rate schedules established as a result of the new  
30 general rate proceeding, or until the subject general rate proceeding  
31 is otherwise decided or dismissed by issuance of a commission order  
32 without new rates being established.

393.1509. 1. (1) At the time that a water or sewer corporation  
2 files a petition with the commission seeking to establish or change a  
3 WSIRA, it shall submit proposed WSIRA rate schedules and supporting  
4 documentation regarding the calculation of the proposed WSIRA with  
5 the petition and shall serve the office of the public counsel with a copy

6 of its petition, its proposed WSIRA rate schedules, and its supporting  
7 documentation.

8 (2) Upon the filing of a petition and any associated WSIRA rate  
9 schedules, seeking to establish or change a WSIRA, the commission  
10 shall publish notice of the filing.

11 2. (1) When a petition, along with any associated proposed rate  
12 schedules, is filed pursuant to the provisions of sections 393.1503 to  
13 393.1509, the commission shall conduct an examination of the proposed  
14 WSIRA.

15 (2) The staff of the commission may examine information of the  
16 water or sewer corporation to confirm that the underlying costs are in  
17 accordance with the provisions of sections 393.1503 to 393.1509, and to  
18 confirm proper calculation of the proposed WSIRA, and may submit a  
19 report regarding its examination to the commission not later than sixty  
20 days after the petition is filed. No other revenue requirement or  
21 ratemaking issues shall be examined in consideration of the petition or  
22 associated proposed WSIRA rate schedules filed pursuant to the  
23 provisions of sections 393.1503 to 393.1509.

24 (3) The commission may hold a hearing on the petition and any  
25 associated WSIRA rate schedule and shall issue an order to become  
26 effective not later than one hundred twenty days after the petition is  
27 filed.

28 (4) If the commission finds that a petition complies with the  
29 requirements of sections 393.1503 to 393.1509, the commission shall  
30 enter an order authorizing the water or sewer corporation to  
31 implement a WSIRA that is sufficient to recover appropriate pretax  
32 revenues, as determined by the commission pursuant to the provisions  
33 of sections 393.1503 to 393.1509.

34 3. A water or sewer corporation may effectuate a change in its  
35 WSIRA pursuant to this section no more often than two times in every  
36 twelve-month period.

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

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

41 (2) The water or sewer corporation's actual regulatory capital  
42 structure as determined during the most recent general rate

43 proceeding of the water or sewer corporation;

44 (3) The actual cost rates for the water or sewer corporation's  
45 debt and preferred stock as determined during the most recent general  
46 rate proceeding of the water or sewer corporation;

47 (4) The water or sewer corporation's cost of common equity as  
48 determined during the most recent general rate proceeding of the  
49 water or sewer corporation;

50 (5) The current property tax rate or rates applicable to the  
51 eligible infrastructure system projects;

52 (6) The current depreciation rates applicable to the eligible  
53 infrastructure system projects;

54 (7) In the event information described in subdivisions (2), (3),  
55 and (4) of this subsection is unavailable and the commission is not  
56 provided with such information on an agreed-upon basis, the  
57 commission shall utilize the overall pretax weighted average cost of  
58 capital last authorized for the water or sewer corporation in a WSIRA  
59 or general rate proceeding.

60 5. (1) A WSIRA shall be calculated based upon the amount of  
61 infrastructure system project costs that are eligible for recovery during  
62 the period in which the WSIRA will be in effect and upon the applicable  
63 customer class billing determinants utilized in designing the water or  
64 sewer corporation's customer rates in its most recent general rate  
65 proceeding and allocated in a manner consistent with the rate design  
66 methodology utilized to develop the water or sewer corporation's rates  
67 resulting from its most recent general rate proceeding.

68 (2) At the end of each twelve-month calendar period that a  
69 WSIRA is in effect, the water or sewer corporation shall reconcile the  
70 differences between the revenues resulting from a WSIRA and the  
71 appropriate pretax revenues as found by the commission for that  
72 period and shall submit the reconciliation and a proposed WSIRA to the  
73 commission for approval to recover or credit the difference, as  
74 appropriate, through a WSIRA.

75 6. (1) A water or sewer corporation that has implemented a  
76 WSIRA pursuant to the provisions of sections 393.1503 to 393.1509 shall  
77 file revised WSIRA schedules to reset the WSIRA to zero when new base  
78 rates and charges become effective for the water or sewer corporation  
79 following a commission order establishing customer rates in a general

80 rate proceeding that incorporates in the utility's base rates, subject to  
81 subsections 8 and 9 of this section, eligible costs previously reflected  
82 in a WSIRA.

83 (2) Upon the inclusion in a water or sewer corporation's base  
84 rates, subject to subsections 8 and 9 of this section, of eligible costs  
85 previously reflected in a WSIRA, the water or sewer corporation shall  
86 immediately thereafter reconcile any previously unreconciled WSIRA  
87 revenues as necessary to ensure that revenues resulting from the  
88 WSIRA match as closely as possible the appropriate pretax revenues as  
89 found by the commission for that period.

90 7. A water or sewer corporation's filing of a petition to establish  
91 or change a WSIRA pursuant to the provisions of sections 393.1503 to  
92 393.1509 shall not be considered a request for a general increase in the  
93 water or sewer corporation's base rates and charges.

94 8. Nothing contained in sections 393.1503 to 393.1509 shall be  
95 construed to impair in any way the authority of the commission to  
96 review the prudence or the eligibility of specific projects included in  
97 the proposed WSIRA, including the authority to approve, modify, or  
98 reject project costs based on prudence and eligibility requirements.

99 9. The commission shall have authority to promulgate rules for  
100 the implementation of sections 393.1503 to 393.1509, but only to the  
101 extent such rules are consistent with, and do not delay the  
102 implementation of, the provisions of sections 393.1503 to 393.1509. Any  
103 rule or portion of a rule, as that term is defined in section 536.010, that  
104 is created under the authority delegated in this section shall become  
105 effective only if it complies with and is subject to all of the provisions  
106 of chapter 536 and, if applicable, section 536.028. This section and  
107 chapter 536 are nonseverable and if any of the powers vested with the  
108 general assembly pursuant to chapter 536 to review, to delay the  
109 effective date, or to disapprove and annul a rule are subsequently held  
110 unconstitutional, then the grant of rulemaking authority and any rule  
111 proposed or adopted after August 28, 2020, shall be invalid and void.