

SENATE COMMITTEE SUBSTITUTE

FOR

HOUSE COMMITTEE SUBSTITUTE

FOR

HOUSE BILL NO. 1152

AN ACT

To repeal sections 393.320 and 393.1506, RSMo, and to enact in lieu thereof two new sections relating to large water public utilities.

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

Section A. Sections 393.320 and 393.1506, RSMo, are repealed and two new sections enacted in lieu thereof, to be known as sections 393.320 and 393.1506, to read as follows:

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

(1) "Large water public utility", a public utility:

(a) That regularly provides water service [or sewer service] to more than eight thousand customer connections, regularly provides sewer service to more than eight thousand customer connections, or regularly provides water or sewer service to an aggregate of more than eight thousand customer connections; and

(b) That provides safe and adequate service but shall not include a sewer district established under Section 30(a), Article VI of the Missouri Constitution, sewer districts established under the provisions of chapter 204, 249, or 250, public water supply districts established under the provisions of chapter 247, or municipalities that own water or sewer systems;

(2) "Small water utility", a public utility that regularly provides water service or sewer service to eight thousand or fewer customer connections; a water district

established under the provisions of chapter 247 that regularly provides water or sewer service to eight thousand or fewer customer connections; a sewer district established under the provisions of chapter 204, 249, or 250 that regularly provides sewer service to eight thousand or fewer customer connections; or a water system or sewer system owned by a municipality that regularly provides water service or sewer service to eight thousand or fewer customer connections; and all other entities that regularly provide water service or sewer service to eight thousand or fewer customer connections.

2. The procedures contained in this section may be chosen by a large water public utility, and if so chosen shall be used by the public service commission to establish the ratemaking rate base of a small water utility during an acquisition.

3. (1) An appraisal shall be performed by three appraisers. One appraiser shall be appointed by the small water utility, one appraiser shall be appointed by the large water public utility, and the third appraiser shall be appointed by the two appraisers so appointed. Each of the appraisers shall be a disinterested person who is a certified general appraiser under chapter 339.

(2) The appraisers shall:

(a) Jointly prepare an appraisal of the fair market value of the water system and/or sewer system. The determination of fair market value shall be in accordance with Missouri law and with the Uniform Standards of Professional Appraisal Practice; and

(b) Return their appraisal, in writing, to the small water utility and large water public utility in a reasonable and timely manner.

(3) If all three appraisers cannot agree as to the appraised value, the appraisal, when signed by two of the appraisers, constitutes a good and valid appraisal.

4. Nothing in this section shall prohibit a party from declining to proceed with an acquisition or be deemed as establishing the final purchase price of an acquisition.

5. (1) The lesser of the purchase price or the appraised value, together with the reasonable and prudent transaction, closing, and transition costs incurred by the large water public utility, shall constitute the ratemaking rate base for the small water utility as acquired by the acquiring large water public utility; provided, however, that if the small water utility is a public utility subject to chapter 386 and the small water utility completed a rate case prior to the acquisition, the public service commission may select as the ratemaking rate base for the small water utility as acquired by the acquiring large water public utility a ratemaking rate base in between:

(a) The lesser of the purchase price or the appraised value, together with the reasonable and prudent transaction, closing, and transition costs incurred by the large water public utility unless such transaction, closing, and transition costs are elsewhere recoverable in rates; and

(b) The ratemaking rate base of the small water utility as ordered by the public service commission in the small water utility's last previous rate case as adjusted by improvements and depreciation reserve since the previous rate case together with the transaction, closing, and transition costs incurred by the large water public utility unless such transaction, closing, and transition costs are elsewhere recoverable in rates. If the small water utility and large water public utility proceed with the sale, any past-due fees due to the state from the small water utility

or its customers under chapter 640 or 644 shall be resolved prior to the transfer of ownership or the liability for such past-due fees becomes the responsibility of the large water public utility. Such fees shall not be included in the large water public utility's rate base.

(2) The public service commission shall issue its decision establishing the ratemaking rate base of the small water utility in its order approving the acquisition within six months of the submission of the application by the large water public utility to acquire a small water utility. If the public service commission does not issue a decision within six months, such application shall be automatically approved.

(3) The public service commission may promulgate rules necessary for the effectuation of this section, including but not limited to, requirements for information disclosure due at the time an application is made for the acquisition of a small water utility by a large water public utility. Any rule or portion of a rule, as that term is defined in section 536.010, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all the provisions of chapter 536 and, if applicable, section 536.028. This section and chapter 536 are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536 to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2023, shall be invalid and void. The provision of this subdivision only applies to the provision of subdivision (2) of this subsection.

6. Upon the date of the acquisition of a small water utility by a large water public utility, whether or not the

procedures for establishing ratemaking rate base provided by this section have been utilized, the small water utility shall, for ratemaking purposes, become part of an existing service area, as defined by the public service commission, of the acquiring large water public utility that is either contiguous to the small water utility, the closest geographically to the small water utility, or best suited due to operational or other factors. This consolidation shall be approved by the public service commission in its order approving the acquisition.

7. Any new permit issued pursuant to chapters 640 and 644, when a small water utility is acquired by a large water public utility, shall include a plan to resolve all outstanding permit compliance issues. After the transfer of ownership, the acquiring large public water utility shall continue providing service to all customers that were served by the small water utility at the time of sale.

8. This section is intended for the specific and unique purpose of determining the ratemaking rate base of small water utilities and shall be exclusively applied to large water public utilities in the acquisition of a small water utility. This section is not intended to apply beyond its specific purpose and shall not be construed in any manner to apply to electric corporations, natural gas corporations, or any other utility regulated by the public service commission.

393.1506. 1. Notwithstanding any provisions of chapter 386 and this chapter to the contrary, a water or sewer corporation that provides water **[or sewer]** service to more than eight thousand customer connections, sewer service to more than eight thousand customer connections, or water or sewer service to an aggregate of more than eight thousand customer connections may file a petition and proposed rate

schedules with the commission to establish or change a WSIRA that will provide for the recovery of the appropriate pretax revenues associated with the eligible infrastructure system projects, less the appropriate pretax revenues associated with any retired utility plant that is being replaced by the eligible infrastructure system projects. The WSIRA shall not produce revenues in excess of fifteen percent of the water or sewer corporation's base revenue requirement approved by the commission in the water or sewer corporation's most recent general rate proceeding; provided, however, that neither WSIRA revenues attributable to replacement of customer-owned lead service lines, nor any reconciliation amounts described in subdivision (2) of subsection 5 of section 393.1509, shall count toward the program cap. The WSIRA and any future changes thereto shall be calculated and implemented in accordance with the provisions of sections 393.1503 to 393.1509. WSIRA revenues shall be subject to refund based upon a finding and order of the commission, to the extent provided in subsections 5 and 8 of section 393.1509.

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

3. In no event shall a water or sewer corporation collect a WSIRA for a period exceeding three years unless the water or sewer corporation has filed for or is the subject of a pending general rate proceeding; provided that the WSIRA may be collected until the effective date of new rate schedules established as a result of the new general

rate proceeding or until the subject general rate proceeding is otherwise decided or dismissed by issuance of a commission order without new rates being established.

4. Except as provided in this subsection, in no event shall a water or sewer corporation collect a WSIRA if also collecting revenues from a commission approved infrastructure system replacement surcharge as provided in sections 393.1000 to 393.1006. In no event shall a customer be charged both an infrastructure system replacement surcharge as provided in sections 393.1000 to 393.1006 and a WSIRA. In the event a water or sewer corporation is collecting infrastructure system replacement surcharge revenues under sections 393.1000 to 393.1006, that was approved prior to August 28, 2021, when the initial WSIRA is filed, the approved infrastructure system replacement surcharge revenues shall be included in the new WSIRA filing.