

FIRST REGULAR SESSION  
HOUSE COMMITTEE SUBSTITUTE FOR  
SENATE SUBSTITUTE FOR  
SENATE COMMITTEE SUBSTITUTE FOR  
**SENATE BILLS NOS. 160 & 82**  
**90TH GENERAL ASSEMBLY**

Reported from the Committee on Local Government & Related Matters, April 29, 1999, with recommendation that the House Committee Substitute for Senate Substitute for Senate Committee Substitute for Senate Bills Nos. 160 & 82 Do Pass.

ANNE C. WALKER, Chief Clerk

L0633.11C

**AN ACT**

To repeal sections 249.645, 386.025, 393.295, 393.705, 393.710, 393.715, 393.725, 393.730, 393.760, 393.770 and 650.295 RSMo 1994, and sections 247.030, 247.040, 640.100 and 644.031, RSMo Supp. 1998, and to enact in lieu thereof thirty-eight new sections relating to water and sewer services, with an emergency clause for certain sections.

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

Section A. Sections 249.645, 386.025, 393.295, 393.705, 393.710, 393.715, 393.725, 393.730, 393.760, 393.770 and 650.295, RSMo 1994, and sections 247.030, 247.040, 640.100 and 644.031, RSMo Supp. 1998, are repealed and thirty-six new sections enacted in lieu thereof, to be known as sections 247.030, 247.040, 249.645, 386.025, 393.295, 393.705, 393.710, 393.715, 393.725, 393.730, 393.760, 393.770, 640.100, 644.031, 644.566, 644.568, 644.570, 650.295, 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17 and 18, to read as follows:

247.030. **1.** Territory that may be included in a district sought to be incorporated **or enlarged** may be wholly within one or in more than one county, may take in school districts or parts thereof, and cities that do not have a waterworks system **or cities whose governing body has by a majority vote requested that the city or part thereof be included within the boundaries of a public water supply district. For the purpose of this section, "city" means any city, town or village.** The territory, however, shall be contiguous, and proceedings to incorporate shall be in the circuit court of the county in which the largest acreage is located. No two districts shall overlap[; but,].

**2.** Any two or more [adjacent] **contiguous** districts **or any city and a contiguous district** may, if there are no outstanding general obligation bonds **relating to drinking water supply projects** in either [district] **entity**, by a majority vote of the [board] **governing body** of each [district] **entity**, provide for [acreage] **territory** located in one [district which is not being served by that district] **entity** to be annexed and served by the [district] **entity** contiguous to the annexed territory. Notice of the proposed annexation shall be filed with the circuit court that originally issued the decree of incorporation for [the district which would lose the] **a district which is detaching** territory through the proposed annexation **or with the circuit court that**

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

**originally issued the decree of incorporation for a district which is including a city or part thereof through the proposed annexation.** The court shall set a date for a hearing on the proposed annexation and shall cause notice to be published in the same manner as for the filing of the original petition for incorporation; except that publication of notice shall not be required if a majority of the landowners in the territory proposed to be annexed consent in writing, and if notice of the hearing is posted in three public places within the territory proposed to be annexed at least seven days before the date of the hearing. If publication of the notice is not required pursuant to this section, the court shall only approve the proposed annexation if there is sworn testimony by at least five landowners in the area of the proposed annexation, or a majority of the landowners, if there are fewer than ten landowners in the area. If the court, after the hearing, finds that the proposed annexation would not be in the public interest, it shall order that the annexation not be allowed. If the court finds the proposed annexation to be in the public interest, it shall approve the annexation and the territory shall be detached from the one [district] entity and annexed to the other. After the annexation is approved, the circuit court in **which** each district **involved in the proceedings was incorporated** shall amend the decree of incorporation for each district to reflect the change in the boundaries as a result of the annexation and to redivide each district into five subdistricts, fixing their boundary lines so that each of the five subdistricts have approximately the same area. A certified copy of the amended decree showing the boundary change and the new subdistricts shall be filed in the office of the recorder of deeds and in the office of the county clerk in each county having territory in the district and in the office of the secretary of state of the state of Missouri.

**3. The boundaries of any district may be extended or enlarged from time to time upon the filing, with the clerk of the circuit court having jurisdiction, of a petition by either:**

**(1) The board of directors of the district and five or more voters within the territory proposed to be annexed by the district; or**

**(2) A majority of the landowners within the territory proposed to be annexed to the district.**

**If the petition is filed by a majority of the landowners within the territory proposed to be annexed, the publication of notice shall not be required, provided notice is posted in three public places within the territory proposed to be annexed at least seven days before the date of the hearing and provided that there is sworn testimony by at least five landowners in the territory proposed to be annexed, or a majority of the landowners if the total landowners in the area are fewer than ten. Upon the entry of a final order declaring the court's decree of annexation to be final and conclusive, the court shall modify or rearrange the boundary lines of the subdistricts as may be necessary or advisable. The costs incurred in the enlargement or extension of the district shall be taxed to the district, if the district be enlarged or extended, otherwise against the petitioners; provided, however, that no costs shall be taxed to the directors of the district.**

**4. Should any voter who owns real estate that abuts upon a district once formed desire to have such real estate incorporated in the district, the voter shall first petition the board of directors thereof for its approval. If such approval be granted, the clerk of the board shall endorse a certificate of the fact of approval by the board upon the petition. The petition so endorsed shall be filed with the clerk of the circuit court in which the**

**district is incorporated. It shall then be the duty of the court to amend the boundaries of such district by a decree incorporating the real estate in the same. A certified copy of this decree including the real estate in the district shall then be filed in the office of the recorder and in the office of the county clerk of the county in which the real estate is located, and in the office of the secretary of state. The costs of this proceeding shall be borne by the petitioning property owner.**

247.040. 1. Proceedings for the formation of a public water supply district shall be substantially as follows: a petition in duplicate describing the proposed boundaries of the district sought to be formed, accompanied by a plat of the proposed district, shall be filed with the clerk of the circuit court of the county wherein the proposed district is situate, or with the clerk of the circuit court of the county having the largest acreage proposed to be included in the proposed district, in the event that the proposed district embraces lands in more than one county. Such petition, in addition to such boundary description, shall set forth an estimate of the number of customers of the proposed district, the necessity for the formation of the district, the probable cost of the improvement, an approximation of the assessed valuation of taxable property within the district and such other information as may be useful to the court in determining whether or not the petition should be granted and a decree of incorporation entered. Such petition shall be accompanied by a cash deposit of fifty dollars as an advancement of the costs of the proceeding, and the petition shall be signed by not less than fifty voters within the proposed district and shall pray for the incorporation of the territory therein described into a public water supply district. The petition shall be verified by at least one of the signers thereof.

2. Upon the filing of the petition, the same shall be presented to the circuit court, and such court shall fix a date for a hearing on such petition, as herein provided for. Thereupon the clerk of the court shall give notice of the filing of the petition in some newspaper of general circulation in the county in which the proceedings are pending, and if the district extends into any other county or counties, such notice shall also be published in some newspaper of general circulation in such other county or counties. The notice shall contain a description of the proposed boundary lines of the district and the general purposes of the petition, and shall set forth the date fixed for the hearing on the petition, which shall not be less than fifteen nor more than twenty-one days after the date of the last publication of the notice and shall be on some regular judicial day of the court wherein the petition is pending. Such notice shall be signed by the clerk of the circuit court and shall be published in three successive issues of a weekly newspaper or in twenty successive issues of a daily newspaper.

3. The court, for good cause shown, may continue the case or the hearing thereon from time to time until final disposition thereof.

4. Exceptions to the formation of a district, or to the boundaries outlined in the petition for the incorporation thereof, may be made by any voter of the proposed district; provided, such exceptions are filed not less than five days prior to the date set for the hearing on the petition. Such exceptions shall specify the grounds upon which the exceptions are being made. If any such exceptions be filed, the court shall take them into consideration in passing upon the petition and shall also consider the evidence in support of the petition and in support of the exceptions made. Should the court find that the petition should be granted but that changes should be made in the boundary lines, it shall make such changes in the boundary lines as set forth in the petition as to the court may seem meet and proper, and thereupon enter its decree of incorporation, with such boundaries as changed.

5. Should the court find that it would not be to the public interest to form such a district, the petition shall be dismissed at the costs of the petitioners. If, however, the court should find in favor of the formation of such district, the court shall enter its decree of incorporation, setting forth the boundaries of the proposed district as determined by the court pursuant to the aforesaid hearing. The decree of incorporation shall also divide the district into five subdistricts and shall fix their boundary lines, all of which subdistricts shall have approximately the same area and shall be numbered. The decree shall further contain an appointment of one voter from each of such subdistricts, to constitute the first board of directors of the district. No two members of such board so appointed or hereafter elected or appointed shall reside in the same subdistrict, except as provided in section 247.060. If no qualified person who lives in the subdistrict is willing to serve on the board, the court may appoint, or the voters may elect, an otherwise qualified person who lives in the district but not in the subdistrict. The court shall designate two of such directors so appointed to serve for a term of two years and one to serve for a term of one year. And the directors thus appointed by the court shall serve for the terms thus designated and until their successors shall have been appointed or elected as herein provided. The decree shall further designate the name and number of the district by which it shall hereafter be officially known.

6. The decree of incorporation shall not become final and conclusive until it shall have been submitted to the voters residing within the boundaries described in such decree and until it shall have been assented to by a majority of the voters as provided in subsection [10] 9 of this section or by two-thirds of the voters of the district voting on the proposition. The decree shall provide for the submission of the question and shall fix the date thereof. The returns shall be certified by the judges and clerks of election to the circuit court having jurisdiction in the case and the court shall thereupon enter its order canvassing the returns and declaring the result of such election.

7. If, upon canvass and declaration, it is found and determined that the question shall have been assented to by a majority of two-thirds of the voters of the district voting on such proposition, then the court shall, in such order declaring the result of the election, enter a further order declaring the decree of incorporation to be final and conclusive. In the event, however, that the court should find that the question had not been assented to by the majority above required, the court shall enter a further order declaring such decree of incorporation to be void and of no effect. No appeal shall lie from any such decree of incorporation nor from any of the aforesaid orders. In the event that the court declares the decree of incorporation to be final, as herein provided for, the clerk of the circuit court shall file certified copies of such decree of incorporation and of such final order with the secretary of state of Missouri, and with the recorder of deeds of the county or counties in which the district is situate and with the clerk of the county commission of the county or counties in which the district is situate.

8. [The boundaries of any district thus formed may be extended or enlarged from time to time upon the filing, with the clerk of the circuit court having jurisdiction, of a petition by either:

- (1) The board of directors of the district and five or more voters within the territory proposed to be annexed by the district; or
- (2) A majority of the landowners within the territory proposed to be annexed to the district.

Thereupon the same proceedings shall be had as are herein provided in the case of the filing of

a petition for the organization of the district, except that if the petition is filed by a majority of the landowners within the territory proposed to be annexed, the publication of notice shall not be required, provided notice is posted in three public places within the territory proposed to be annexed at least seven days before the date of the hearing and provided that there is sworn testimony by at least five landowners in the territory proposed to be annexed, or a majority of the landowners if the total landowners in the area are fewer than ten. And upon the entry of a final order declaring the court's decree of annexation to be final and conclusive, the court shall modify or rearrange the boundary lines of the subdistricts as may be necessary or advisable.

9.] The costs incurred in the formation[, enlargement or extension] of the district shall be taxed to the district, if the district be incorporated[, enlarged or extended,] otherwise against the petitioners[]; provided, however, that no costs shall be taxed to the directors of the district; provided further, should any voter who owns real estate that abuts upon a district once formed desire to have such real estate incorporated in the district, the voter shall first petition the board of directors thereof for its approval. If such approval be granted, the clerk of the board shall endorse a certificate of the fact of approval by the board upon the petition. The petition so endorsed shall be filed with the clerk of the circuit court in which the district is incorporated. It shall then be the duty of the court to amend the boundaries of such district by a decree incorporating the real estate in the same. A certified copy of this decree including the real estate in the district shall then be filed in the office of the recorder and in the office of the county clerk of the county in which the real estate is located, and in the office of the secretary of state. The costs of this proceeding shall be borne by the petitioning property owner[].

[10.] 9. If petitioners seeking formation of a public water supply district specify in their petition that the district to be organized shall be organized without authority to issue general obligation bonds, then the decrees relating to the formation of the district shall recite that the district shall not have authority to issue general obligation bonds and the vote required for such a decree of incorporation to become final and conclusive shall be a simple majority of the voters of the district voting on such proposition.

249.645. 1. Any public sewer district created under the provisions of sections 249.430 to 249.660 **or established pursuant to article VI, section 30(a) of the Missouri Constitution** may establish, make and collect charges for sewage services, including tap-on fees. The charges may be set as a flat fee or based upon the amount of water supplied to the premises and shall be in addition to those charges which may be levied and collected for maintenance, repair and administration expenses as provided for in section 249.640. Any private water company, public water supply district, or municipality supplying water to the premises located within a sewer district shall, upon reasonable request, make available to such sewer district its records and books so that such sewer district may obtain therefrom such data as may be necessary to calculate the charges for sewer service. Prior to establishing any such sewer charges, public hearings shall be held thereon and at least thirty days' notice shall be given thereof.

2. Any charges made under this section shall be due at such time or times as specified by the county commission, and shall, if not paid by the due date, become delinquent and shall bear interest from the date of delinquency until paid. If such charges become delinquent, they shall be a lien upon the land charged, upon the county commission filing with the recorder of deeds in the county where the land is situated a notice of delinquency. The county commission shall file with the recorder of deeds a similar notice when the delinquent amounts, plus interest and any recording fees or attorney's fees, have been paid in full. The lien hereby created may be enforced

by suit or foreclosure.

3. Should a lien be placed upon a customer's property by a public sewer district for unpaid sewer charges, the lien shall have priority as and be enforced in the same manner as taxes levied for state and county purposes.

4. Should the sewer charges remain unpaid for a period in excess of [one year] **three months**, the district, after notice to the customer by certified mail, shall have the authority at its discretion to disconnect the customer's sewer line from the district's line or request any private water company, public water supply district, or any municipality supplying water to the premises to discontinue service to the customer until such time as the sewer charges and all related costs of this section are paid.

386.025. Any joint municipal utility commission established by contract for the purpose of owning, operating, controlling or managing all or part of any [water,] gas or electric light works, heating or power plants, or gas or electrical production, distribution or transmission facilities shall be considered a [water corporation,] gas corporation or electrical corporation, as the case may be, as those terms are defined in this chapter.

393.295. All provisions of chapters 386 and 393, RSMo, concerning court proceedings and the jurisdiction, supervision, powers and duties of the public service commission with reference to [water corporations,] gas corporations and electrical corporations, including, but not limiting by enumeration those provisions concerning supervision, investigations, complaints, hearings, reports, approval of certificates of franchises, granting of certificates, approval of issues of stocks, bonds, notes and other evidence of indebtedness, keeping of accounts, fixing of just and reasonable rates, which shall be based on costs associated with any property of such corporations, shall be and are hereby made fully applicable to any joint municipal utility commission which owns, operates, controls or manages all or part of any [water,] gas or electric light works, heating or power plants, electrical energy resources or gas or electrical production, distribution or transmission facilities in this state. Nothing contained herein, however, shall affect the rights, privileges or duties of existing corporations pursuant to this chapter, including the construction of facilities within an existing certificated area.

393.705. As used in sections 393.700 to 393.770 and sections 386.025, RSMo, and 393.295, the following terms shall, unless the context clearly indicates otherwise, have the following meanings:

(1) "Bond" or "bonds", any bonds, interim certificates, notes, debentures or other obligations of a commission issued pursuant to sections 393.700 to 393.770 and sections 386.025, RSMo, and 393.295;

(2) "Commission", any joint municipal utility commission established by a joint contract under sections 393.700 to 393.770 and sections 386.025, RSMo, and 393.295;

(3) "Contracting municipality", each municipality which is a party to a joint contract establishing a commission under sections 393.700 to 393.770 and sections 386.025, RSMo, and 393.295, [or] a water supply district formed under the provisions of chapter 247, RSMo, **or a sewer district formed pursuant to the provisions of chapter 204, RSMo, or chapter 249, RSMo;**

(4) "Joint contract", the contract entered into among or by and between two or more contracting municipalities [or], between municipalities and public water supply districts, **or between municipalities and sewer districts** for the purpose of establishing a commission;

(5) "Person", a natural person, cooperative or private corporation, association, firm,

partnership, or business trust of any nature whatsoever, organized and existing under the laws of any state or of the United States and any municipality or other municipal corporation, governmental unit, or public corporation created under the laws of this state or the United States, and any person, board, or other body declared by the laws of any state or the United States to be a department, agency or instrumentality thereof;

(6) "Project", the purchasing, construction, extending or improving of any revenue producing water, **sewage**, gas or electric light works, heating or power plants, including all real and personal property of any nature whatsoever to be used in connection therewith, together with all parts thereof and appurtenances thereto, used or useful in the generation, production, transmission, distribution excluding retail sales, purchase, sale, exchange, **transport and treatment of sewage** or interchange of water, **sewage**, electric power and energy, or any interest therein or right to capacity thereof and the acquisition of fuel of any kind for any such purposes.

393.710. 1. Municipalities [and], public water supply districts, **and sewer districts** may, by joint contract, establish a separate governmental entity to be known as a joint municipal utility commission, to effect the joint development of water, **sewer**, gas, or electric light works, heating and power plants, or production, distribution and transmission of electric power and energy in whole or in part for the benefit of the inhabitants of such municipalities.

2. Any joint contract establishing a commission under this section shall specify:

(1) The name and purpose of the commission and the functions or services to be provided by the commission;

(2) The establishment and organization of a governing body of a commission which shall be a board of directors in which all powers of the commission are vested. The joint contract may provide for the creation by the board of an executive committee of the board to which the powers and duties may be delegated as the board shall specify;

(3) The number of directors, the manner of their appointment, terms of office and compensation, if any, and the procedure for filling vacancies on the board. Each contracting municipality [and], public water supply district, **and sewer district** shall have the power to appoint one member and an alternate to the board of directors and shall be entitled to remove that member and alternate at will;

(4) The manner of selection of the officers of the commission and their duties;

(5) The voting requirements for action by the board, but, unless specifically provided otherwise, a majority of directors shall constitute a quorum and a majority of the quorum shall be necessary for any action taken by the board;

(6) The duties of the board which shall include the obligation to comply or to cause compliance with this section and the laws of the state and, in addition, with each and every term, provision and covenant in the joint contract creating the commission on its part to be kept or performed;

(7) The manner in which additional municipalities [and], public water supply districts, **and sewer districts** may become parties to the joint contract;

(8) The manner of financing the district and of establishing and maintaining a budget and annual audit for the district;

(9) The ownership interests of the contracting municipality electric cooperative associations, municipally owned or public utilities in a project or the manner of determining such ownership interest, which ownership interest shall be subject to any mortgage of a project pursuant to section 393.735;

(10) Provisions for the disposition, division or distribution of any property or assets of the commission on dissolution; and

(11) The term of the joint contract, which may be a definite period or until rescinded or terminated, and the method, if any, by which the joint contract may be rescinded or terminated so long as the commission has no bonds outstanding, unless provision for full payment of such bonds, by escrow or otherwise, has been made pursuant to the terms of the bonds or the resolution, trust indenture or security instrument securing the bonds.

3. A commission shall, if the joint contract so provides, be the successor to any nonprofit corporation, agency, or another entity theretofore organized by the contracting municipalities to provide the same function, service or facility, and the commission shall be entitled to all rights and privileges and shall assume all obligations and liabilities of such other entity under existing contracts to which such other entity is a party.

393.715. 1. The general powers of a commission to the extent provided in section 393.710 herein and subject to the provisions of section 393.765 herein shall include the power to:

(1) Plan, develop, acquire, construct, reconstruct, operate, manage, dispose of, participate in, maintain, repair, extend or improve one or more projects, either exclusively or jointly or by participation with electric cooperative associations, municipally owned or public utilities or acquire any interest in or any rights to capacity of a project, within or outside the state, and act as an agent, or designate one or more other persons participating in a project to act as its agent, in connection with the planning, acquisition, construction, operation, maintenance, repair, extension or improvement of such project;

(2) Acquire, sell, distribute and process fuels necessary to the production of electric power and energy; provided, however, the commission shall not have the power or authority to erect, own, use or maintain a transmission line which is parallel or generally parallel to another transmission line in place within a distance of two miles, which serves the same general area sought to be served by the commission unless the public service commission finds that it is not feasible to utilize the transmission line which is in place;

(3) ~~[To]~~ Acquire by purchase or lease, construct, install, and operate reservoirs, pipelines, wells, check dams, pumping stations, water purification plants, and other facilities for the production, wholesale distribution, and utilization of water and to own and hold such real and personal property as may be necessary to carry out the purposes of its organization; **provided, however, that a commission shall not sell or distribute water, at retail or wholesale, within the certificated area of a water corporation which is subject to the jurisdiction of the public service commission unless the sale or distribution of water is within the boundaries of a public water supply district or municipality which is a contracting municipality in the commission and the commission has obtained the approval of the public service commission prior to commencing such sale or distribution of water;**

(4) **Acquire by purchase or lease, construct, install, and operate lagoons, pipelines, wells, pumping stations, sewage treatment plants and other facilities for the treatment and transportation of sewage and to own and hold such real and personal property as may be necessary to carry out the purposes of its organization;**

~~[(4)]~~ (5) Enter into operating, franchises, exchange, interchange, pooling, wheeling, transmission and other similar agreements with any person;

~~[(5)]~~ (6) Make and execute contracts and other instruments necessary or convenient to

the exercise of the powers of the commission;

[(6)] (7) Employ agents and employees;

[(7)] (8) Contract with any person, within or outside the state, for the construction of any project or for any interest therein or any right to capacity thereof, without advertising for bids, preparing final plans and specifications in advance of construction, or securing performance and payment of bonds, except to the extent and on such terms as its board of directors shall determine. Any contract entered into pursuant to this subdivision shall contain a provision that the requirements of sections 290.210 to 290.340, RSMo, shall apply;

[(8)] (9) Purchase, sell, exchange, transmit, **treat, dispose** or distribute water, **sewage**, gas, heat or electric power and energy, or any by-product resulting therefrom, within and outside the state, in such amounts as it shall determine to be necessary and appropriate to make the most effective use of its powers and to meet its responsibilities, and to enter into agreements with any person with respect to such purchase, sale, exchange, **treatment, disposal** or transmission, on such terms and for such period of time as its board of directors shall determine. A commission may not sell or distribute water, gas, heat or power and energy, **or sell sewage service** at retail to ultimate customers outside the boundary limits of its contracting municipalities except pursuant to subsection 2 of this section;

[(9)] (10) Acquire, own, hold, use, lease, as lessor or lessee, sell or otherwise dispose of, mortgage, pledge, or grant a security interest in any real or personal property, commodity or service or interest therein;

[(10)] (11) Exercise the powers of eminent domain for public use as provided in chapter 523, RSMo, except that the power of eminent domain shall not be exercised against any electric cooperative association, municipally owned or public utility;

[(11)] (12) Incur debts, liabilities or obligations including the issuance of bonds pursuant to the authority granted in section 27 of article VI of the Missouri Constitution;

[(12)] (13) Sue and be sued in its own name;

[(13)] (14) Have and use a corporate seal;

[(14)] (15) Fix, maintain and revise fees, rates, rents and charges for functions, services, facilities or commodities provided by the commission;

[(15)] (16) Make, and from time to time, amend and repeal, bylaws, rules and regulations not inconsistent with this section to carry into effect the powers and purposes of the commission;

[(16)] (17) Notwithstanding the provisions of any other law, invest any funds held in reserve or sinking funds, or any funds not required for immediate disbursement, including the proceeds from the sale of any bonds, in such obligations, securities and other investments as the commission deems proper;

[(17)] (18) Join organizations, membership in which is deemed by the board of directors to be beneficial to accomplishment of the commission's purposes;

[(18)] (19) Exercise any other powers which are deemed necessary and convenient by the commission to effectuate the purposes of the commission; and

[(19)] (20) Do and perform any acts and things authorized by this section under, through or by means of an agent or by contracts with any person.

2. When a municipality purchases a privately owned water utility and a commission is created pursuant to sections 393.700 to 393.770, the commission may continue to serve those locations previously receiving water from the private utility even though the location receives such service outside the geographical area of the municipalities forming the commission. New

water service may be provided in such areas if the site to receive such service is located within one-fourth of a mile from a site serviced by the privately owned water utility.

393.725. 1. Bonds issued pursuant to sections 393.700 to 393.770 by a commission shall be payable, as to the principal and interest, solely from the net revenues derived by the commission from the operation of the commission's project or projects, after providing for the costs of operation and maintenance of the commission's project or projects, or from any other funds made available to the commission from sources other than from proceeds of taxation.

2. Each bond issued pursuant to the provisions of sections 393.700 to 393.770 shall contain a statement that such bond is not an indebtedness of the state, or of any political subdivision thereof, other than the joint municipal utility commission, or of the contracting municipalities [or], the contracting public water supply districts **or the contracting sewer districts**, but shall be special obligations of the commission only and that neither the faith and credit nor the taxing power of the state or of any political subdivision thereof, or of the contracting municipalities [or], contracting public water supply districts **or contracting sewer districts** is pledged to the payment of or the interest on such bonds. The bonds shall not be deemed to be an indebtedness within the meaning of any constitutional or statutory limitation upon the incurring of indebtedness. Neither the members of the board of directors of a commission nor any person executing the bonds shall be liable personally on the bonds by reason of the lawful issuance thereof.

3. A commission, subject to the provisions of section 393.760, may from time to time issue its bonds in such principal amounts as it deems necessary to provide sufficient funds to purchase, construct, extend or improve a project, including the establishment or increase of reserves, interest accrued during construction of such project and for a period not exceeding one year after the completion of construction of such project, and the payment of all other costs or expenses of the commission incident to and necessary or convenient to carry out its corporate purposes and powers.

4. Bonds of a commission shall be authorized by resolution of the board of directors and may be issued under such resolution or under a trust indenture or other security instrument, as authorized by the resolution, in one or more series and shall bear such date or dates, mature at such time or times, bear interest at such rate or rates, be in such denomination or denominations, be in such form, either coupon, registered or both, carry such conversion or registration privileges, have such rank or priority, be executed in such manner, be payable in such medium of payment, at such place or places within or without the state, and be subject to such terms of redemption, with or without premium, as such resolution, trust indenture or other security instrument may provide, and without limitation by the provisions of any other law limiting amounts, maturities or interest rates.

5. The bonds shall be sold at public sale and in the event of a rejection of all bids by the commission, the bonds may be sold at private sale as the commission may provide and at such price or prices as the commission shall determine or for a joint municipal utility commission within a fifteen county area being served with water from a lake constructed by the U.S. Army Corps of Engineers and located north of the Missouri River, if the commission determines it is in the best interest of the commission, at private sale. The reason or reasons why private sale is in the best interest of the people served shall be set forth in the order or resolution authorizing the private sale. The decision of the commission shall be conclusive.

6. The bonds may be signed by manual or facsimile signatures as determined by resolution

of the board. In case any of the officers whose signatures appear on any bonds or coupons shall cease to be such officers before the delivery of such obligations, such signatures shall, nevertheless, be valid and sufficient for all purposes, the same as if the officers had remained in office until such delivery.

7. Pending preparation of definitive bonds, a commission may issue temporary bonds which shall be exchanged for the definitive bonds when such bonds shall have been executed and are available for delivery.

8. All bonds issued under the provisions of sections 393.700 to 393.770 shall be negotiable instruments under the provisions of the uniform commercial code of the state.

393.730. 1. The resolution authorizing any issuance of bonds hereunder shall make provision for the payment of the bonds by fixing such rates, fees and charges for water, **sewer**, gas, heat, electric power and energy and all other services sufficient to pay the interest and principal of the bonds when due, to provide for a sinking fund sufficient to retire the bonds, and to provide and maintain reasonable reserves. Such rates, fees and charges shall also be sufficient to pay the costs of operation, improvement and maintenance of the water, **sewer**, gas, heat or electric power facilities.

2. The resolution and trust indenture under which any bonds shall be issued shall constitute a contract with the holders of the bonds, and may contain provisions, among others, as to:

- (1) The terms and provisions of the bonds;
- (2) As provided in section 393.735, the mortgage or pledge of and the grant of a security interest in any real or personal property and all or any part of the revenues from any project or projects or any revenue producing contract or contracts made by the commission with any person to secure the payment of bonds, subject to such agreements with the holders of bonds as may then exist;
- (3) The custody, collection, securing, investment and payment of any revenues, assets, money, funds or property with respect to which the commission may have any rights or interest;
- (4) The purposes to which the proceeds from the sale of any bonds then or thereafter to be issued may be applied, and the pledge of such proceeds to secure the payment of the bonds;
- (5) Limitations on the issuance of any additional bonds, the terms upon which additional bonds may be issued and secured, and the refunding of outstanding bonds;
- (6) The rank or priority of any bonds with respect to any lien or security;
- (7) The creation of special funds or moneys to be held in trust or otherwise for operating expenses, payment, or redemption of bonds, reserves or other purposes, and the use and disposition of moneys held in such funds;
- (8) The procedure by which the terms of any contract with or for the benefit of the holders of bonds may be amended or abrogated, the amount of bonds the holders of which must consent thereto, and the manner in which such consent may be given;
- (9) The definition of the acts or omissions to act which shall constitute a default in the duties of the commission to holders of its bonds, and the rights and remedies of such holders in the event of such default including, if the commission shall so determine, the right to accelerate the due date of the bonds or the right to appoint a receiver or receivers of the property or revenues subject to the lien of the resolution and trust indenture;
- (10) Any other or additional agreements with or for the benefit of the holders of bonds or any covenants or restrictions necessary or desirable to safeguard the interests of such holders;

(11) The custody of any of its properties or investments, the safekeeping thereof, the insurance to be carried thereon, and the use and disposition of insurance proceeds;

(12) The vesting in a trustee or trustees, within or outside the state, of such properties, rights, powers, and duties in trust as the commission may determine, or limiting or abrogating the rights of the holders of any bonds to appoint a trustee, or limiting the rights, powers, and duties of such trustee; and

(13) Appointing and providing for the duties and obligations of a paying agent or paying agents or other fiduciaries within or outside the state.

393.760. 1. The commission shall, in accordance with the provisions of chapter 115, RSMo, order an election to be held whereby the qualified electors in each contracting municipality participating in the project shall approve or disapprove the issuance of the bonds as provided for in the resolution of the commission. The commission may not order such an election until it has engaged and received a report from an independent consulting engineer as defined in section 327.181, RSMo, for the purpose of determining the economic and engineering feasibility of any proposed project the costs of which are to be financed through the issuance of bonds. The report of the consulting engineer shall be provided to and approved by the legislative body and executive of each contracting municipality participating in the project and such report shall be open to public inspection and shall be the subject of a public hearing in each municipality participating in the project. Notice of the time and place of each such hearing shall be published in a daily newspaper of general circulation within each municipality. Interested parties may appear and fully participate in such hearings.

2. The commission shall notify the election authority or authorities responsible for conducting elections within each contracting municipality participating in the project in accordance with chapter 115, RSMo.

3. The question shall be submitted in substantially the following form:

OFFICIAL BALLOT

Should a resolution to approve the issuance of revenue bonds by the joint municipal (water) **(sewer)** (power) (gas) commission in an amount not to exceed \$..... for the purpose of ..... be approved?

**G** Yes

**G** No

If you are in favor of the resolution, place an "X" in the box opposite "Yes". If you are opposed to the question, place an "X" in the box opposite "No".

4. If the resolution to issue the bonds is approved by at least a majority of the qualified electors voting thereon in each of the contracting municipalities participating in the project, the commission shall declare the result of the election and cause the bonds to be issued.

5. The municipalities participating in the project shall bear all expenses associated with the elections in such contracting municipalities.

393.770. 1. The contracting municipalities may provide in the joint contract for payment to the commission of funds for commodities to be procured and services to be rendered by the commission. The contracting municipalities and other persons may enter into purchase agreements with the commission for the purchase, sale, exchange or transmission of water, **sewage service**, gas, heat or any right to capacity or interest in such electric power and energy whereby the purchaser is obligated to make payments in amounts which shall be sufficient to enable the [company] **commission** to meet its expenses, interest and principal payments, whether

at maturity or upon sinking fund redemption, for its bonds, reasonable reserves for debt service, operation and maintenance and renewals and replacements and the requirements of any rate covenant with respect to debt service coverage contained in any resolution, trust indenture or other security instrument. Purchase agreements may contain such other terms and conditions as the commission and the purchasers may determine, including provisions whereby the purchaser is obligated to pay for water, **sewage service**, gas, heat or power irrespective of whether water, **sewage service**, gas, heat or energy is produced or delivered to the purchaser or whether any project contemplated by any such agreement is completed, operable or operating, and notwithstanding suspension, interruption, interference, reduction or curtailment of the output of such project. Such agreements may be for a term covering the life of a project or for any other term, or for an indefinite period. The joint contract or a purchase agreement may provide that if one or more of the purchasers default in the payment of its obligations under any such purchase agreement, the remaining purchasers which also have such agreements shall be required to accept and pay for and shall be entitled proportionately to use or otherwise dispose of the water, **sewage service**, gas, heat or energy to be purchased by the defaulting purchaser.

2. The obligations of a municipality under a purchase agreement with a commission or arising out of the default by any other purchaser with respect to such an agreement shall not be construed to constitute debt of the municipality. To the extent provided in the purchase agreement, such obligations shall constitute special obligations of the municipality, payable solely from the revenues and other moneys derived by the municipality from its municipal utility and shall be treated as expenses of operating a municipal utility.

640.100. 1. The safe drinking water commission created in section 640.105 shall promulgate rules necessary for the implementation, administration and enforcement of sections 640.100 to 640.140 and the federal Safe Drinking Water Act as amended.

2. No standard, rule or regulation or any amendment or repeal thereof shall be adopted except after a public hearing to be held by the commission after at least thirty days' prior notice in the manner prescribed by the rulemaking provisions of chapter 536, RSMo, and an opportunity given to the public to be heard; the commission may solicit the views, in writing, of persons who may be affected by, knowledgeable about, or interested in proposed rules and regulations, or standards. Any person heard or registered at the hearing, or making written request for notice, shall be given written notice of the action of the commission with respect to the subject thereof. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is promulgated to administer and enforce sections 640.100 to 640.140 shall become effective only if the agency has fully complied with all of the requirements of chapter 536, RSMo, including but not limited to, section 536.028, RSMo, if applicable, after June 9, 1998. All rulemaking authority delegated prior to June 9, 1998, is of no force and effect and repealed as of June 9, 1998, however, nothing in this section shall be interpreted to repeal or affect the validity of any rule adopted or promulgated prior to June 9, 1998. If the provisions of section 536.028, RSMo, apply, the provisions of this section are nonseverable and if any of the powers vested with the general assembly pursuant to section 536.028, RSMo, to review, to delay the effective date, or to disapprove and annul a rule or portion of a rule are held unconstitutional or invalid, the purported grant of rulemaking authority and any rule so proposed and contained in the order of rulemaking shall be invalid and void, except that nothing in this [act] **chapter or chapter 644, RSMo**, shall affect the validity of any rule adopted and promulgated prior to June 9, 1998.

3. The commission shall promulgate rules and regulations for the certification of public

water system operators, backflow prevention assembly testers and laboratories conducting tests pursuant to sections 640.100 to 640.140. Any person seeking to be a certified backflow prevention assembly tester shall satisfactorily complete standard, nationally recognized written and performance examinations designed to ensure that the person is competent to determine if the assembly is functioning within its design specifications. Any such state certification shall satisfy any need for local certification **as a backflow prevention assembly tester. However, political subdivisions may set additional requirements for the protection and integrity of the systems that require the installation of a backflow device to protect the connected potable water supply of the water purveyor and the connected potable water supply within the premises.** The commission shall promulgate rules and regulations for collection of samples and analysis of water furnished by municipalities, corporations, companies, state establishments, federal establishments or individuals to the public. The department of natural resources or the department of health shall, at the request of any supplier, make any analyses or tests required pursuant to the terms of section 192.320, RSMo, and sections 640.100 to 640.140. The department shall collect fees to cover the reasonable cost of laboratory services, both within the department of natural resources and the department of health, laboratory certification and program administration as required by sections 640.100 to 640.140. The laboratory services and program administration fees pursuant to this subsection shall not exceed two hundred dollars for a supplier supplying less than four thousand one hundred service connections, three hundred dollars for supplying less than seven thousand six hundred service connections, five hundred dollars for supplying seven thousand six hundred or more service connections, and five hundred dollars for testing surface water. Such fees shall be deposited in the safe drinking water fund as specified in section 640.110. The analysis of all drinking water required by section 192.320, RSMo, and sections 640.100 to 640.140 shall be made by the department of natural resources laboratories, department of health laboratories or laboratories certified by the department of natural resources.

4. The department of natural resources shall establish and maintain an inventory of public water supplies and conduct sanitary surveys of public water systems. Such records shall be available for public inspection during regular business hours.

5. (1) For the purpose of complying with federal requirements for maintaining the primacy of state enforcement of the federal Safe Drinking Water Act, the department is hereby directed to request appropriations from the general revenue fund and all other appropriate sources to fund the activities of the public drinking water program and in addition to the fees authorized pursuant to subsection 3 of this section, an annual fee for each customer service connection with a public water system is hereby authorized to be imposed upon all customers of public water systems in this state. The fees collected shall not exceed the amounts specified in this subsection and the commission may set the fees, by rule, in a lower amount by proportionally reducing all fees charged pursuant to this subsection from the specified maximum amounts. Each customer of a public water system shall pay an annual fee for each customer service connection.

(2) The annual fee per customer service connection for unmetered customers and customers with meters not greater than one inch in size, shall be based upon the number of service connections in the water system serving that customer, and shall not exceed:

|                                      |        |
|--------------------------------------|--------|
| 1 to 1,000 connections . . . . .     | \$2.00 |
| 1,001 to 4,000 connections . . . . . | 1.84   |
| 4,001 to 7,000 connections . . . . . | 1.67   |

|                                     |      |
|-------------------------------------|------|
| 7,001 to 10,000 connections .....   | 1.50 |
| 10,001 to 20,000 connections .....  | 1.34 |
| 20,001 to 35,000 connections .....  | 1.17 |
| 35,001 to 50,000 connections .....  | 1.00 |
| 50,001 to 100,000 connections ..... | .84  |
| More than 100,000 connections ..... | .66  |

(3) The annual user fee for customers having meters greater than one inch but less than or equal to two inches in size shall not exceed five dollars; for customers with meters greater than two inches but less than or equal to four inches in size shall not exceed twenty-five dollars; and for customers with meters greater than four inches in size shall not exceed fifty dollars.

(4) Customers served by multiple connections shall pay an annual user fee based on the above rates for each connection, except that no single facility served by multiple connections shall pay a total of more than five hundred dollars per year.

6. Fees imposed pursuant to subsection 5 of this section shall become effective on August 28, 1992, and shall be collected by the public water system serving the customer. The commission shall promulgate rules and regulations on the procedures for billing, collection and delinquent payment. Fees collected by a public water system pursuant to subsection 5 of this section are state fees. The annual fee shall be enumerated separately from all other charges, and shall be collected in monthly, quarterly or annual increments. Such fees shall be transferred to the director of the department of revenue at frequencies not less than quarterly. Two percent of the revenue arising from the fees shall be retained by the public water system for the purpose of reimbursing its expenses for billing and collection of such fees.

7. Imposition and collection of the fees authorized in subsection 5 of this section shall be suspended on the first day of a calendar quarter if, during the preceding calendar quarter, the federally delegated authority granted to the safe drinking water program within the department of natural resources to administer the Safe Drinking Water Act, 42 U.S.C. 300g-2, is withdrawn. The fee shall not be reinstated until the first day of the calendar quarter following the quarter during which such delegated authority is reinstated.

8. Fees imposed pursuant to subsection 5 of this section shall expire on September 1, 2002.

644.031. 1. The general assembly may appropriate funds to the clean water commission of the department of natural resources for the control of storm water in any county **of the first classification** or in any city **with a population of more than four hundred thousand inhabitants, or in any city not within a county**. The commission shall administer and expend such funds in accordance with the terms of the appropriation.

2. The commission shall administer and expend such funds in the following manner:

(1) The funds shall be distributed based on the percentage of the population of a county or city **that is eligible pursuant to this section** in relation to the combined population of all counties and cities **that are eligible for such funds pursuant to this section**, according to the most recent federal decennial census. Participating counties or cities must have a comprehensive storm water control plan or study approved by the Missouri clean water commission, **or a comparable study acceptable to the U.S. Army Corps of Engineers and approved by the commission**, prior to being eligible [or have matching moneys for such a study or plan, as required by subsection 3 of this section], however, a comprehensive storm water control plan or study prepared by any city or other political subdivision within a participating county may be

accepted by the clean water commission in lieu of a county plan or study;

(2) The commission shall obligate all funds appropriated under this section to qualifying political subdivisions for storm water projects or for a comprehensive storm water control plan or study approved by the Missouri clean water commission prior to the end of the fiscal year of the appropriation or reappropriation. The political subdivisions receiving assistance under this section shall award all significant construction contracts for their projects within eighteen months of the appropriation or reappropriation[. Where the moneys are to be used for a study or plan, all such moneys for the study shall be expended within two years of the appropriation];

(3) Any funds remaining unobligated at the end of the fiscal year together with any funds obligated for construction contracts which were not awarded within eighteen months of the appropriation or reappropriation [and funds which were to be used to fund a study or plan that were not expended within two years of the appropriation] shall be returned to the commission and redistributed in accordance with this section.

3. Funds authorized by the general assembly for storm water control to an eligible county or city may be expended for no more than [eighty percent] **one-third** of the costs of any one storm water project.

**644.566. 1. In addition to those sums authorized prior to the effective date of this section, the board of fund commissioners of the state of Missouri, as authorized by section 37(e) of article III of the Constitution of the state of Missouri, may borrow on the credit of this state the sum of two and one-half million dollars in the manner and for the purpose of financing and constructing improvements as set out in chapter 640, RSMo, and this chapter.**

**2. In addition to those sums authorized prior to the effective date of this section, the board of fund commissioners of the state of Missouri, as authorized by section 37(e) of article III of the Constitution of the state of Missouri, may borrow on the credit of this state the sum of fifteen million dollars in the manner and for the purposes set out in chapter 640, RSMo, and this chapter.**

**644.568. In addition to those sums authorized prior to the effective date of this section, the board of fund commissioners of the state of Missouri, as authorized by section 37(g) of article III of the Constitution of the state of Missouri, may borrow on the credit of this state the sum of ten million dollars for the purposes of financing and constructing improvements as set out in this chapter. The department shall allocate these funds to counties, municipalities, sewer districts, water districts, or any combination of the same to provide grants and loans for rural water and sewer projects.**

**644.570. 1. The board of fund commissioners of the state of Missouri, as authorized by section 37(h) of article III of the Constitution of the state of Missouri, may borrow on the credit of this state the sum of twenty million dollars for the purposes of financing and constructing stormwater control plans, studies and projects as set out in this chapter. The department shall allocate these funds through grants and loans to municipalities, sewer districts, sewer districts established pursuant to article VI, section 30(a) of the Missouri Constitution, water districts, or any combination of the same located in a county of the first classification or in any city not within a county or by any county of the first classification.**

**2. Of the funds allocated in subsection 1 of this section, fifty percent shall be allocated to grants and fifty percent shall be allocated to loans. Grant amounts so awarded shall be fifty percent of the cost of the plan, study or project.**

3. Grants and loans awarded pursuant to this section shall be disbursed to eligible recipients in counties of the first classification and in a city not within a county in an amount equal to the percentage ratio that the recipient's population bears to the total population of all counties of the first classification and cities not within a county as determined by the last decennial census.

4. Grants and loans awarded pursuant to this section shall be disbursed directly to eligible recipients in any city with a population of at least twenty-five thousand inhabitants located in a county of the first classification in an amount equal to the percentage ratio that the recipient's population bears to the total population of the county.

5. Other provisions of this section notwithstanding, in those cities or counties served by a sewer district established pursuant to article VI, section 30(a) of the Constitution of the state of Missouri, any grants or loans awarded shall be disbursed directly to such district.

650.295. Any person certified by the department of natural resources as a certified backflow prevention assembly tester shall be eligible to be registered or licensed by any county, city, town, village or other political subdivision of this state to test and repair a backflow prevention assembly pursuant to the practice of his **or her** trade within that political subdivision as long as he **or she** maintains state certification **and meets the requirements of such political subdivision with respect to the protection and integrity of the systems that require the installation of a backflow device to protect the connected potable water supply of the water purveyor and the connected water supply within the premises.**

Section 1. 1. Nonprofit, membership corporations may be organized pursuant to sections 1 to 18 of this act only for the purpose of supplying water for distribution, wholesale and treatment services within the state of Missouri. Corporations which become subject to sections 1 to 18 of this act are referred to in sections 1 to 18 of this act as "nonprofit water companies". Five or more persons may organize a nonprofit water company pursuant to sections 1 to 18 of this act.

2. The articles of incorporation of a nonprofit water company shall recite in the caption that they are executed pursuant to sections 1 to 18 of this act, shall be signed and acknowledged in duplicate by at least five of the incorporators and shall state:

- (1) The name of the company;
- (2) The address of its principal office;
- (3) The names and addresses of the incorporators;
- (4) The number of years the company is to continue, which may be any number including perpetuity;
- (5) The legal description of the territory in which the company intends to operate;
- (6) The names and addresses of the persons who shall constitute its first board of directors;
- (7) Whether the company chooses to operate pursuant to chapter 347, RSMo, or chapter 355, RSMo;
- (8) The method chosen for distributing the assets of the company upon dissolution; and
- (9) Any provisions not inconsistent with sections 1 to 18 of this act deemed necessary or advisable for the conduct of its business and affairs. Such articles of incorporation shall be submitted to the secretary of state for filing.

**Section 2. Any corporation organized pursuant to the laws of this state for the purpose, among others, of water treatment may be converted into a nonprofit water company and become subject to sections 1 to 18 of this act with the same effect as if originally organized pursuant to sections 1 to 18 of this act by complying with the following requirements:**

**(1) The proposition for the conversion of such corporation into a nonprofit water company and proposed articles of conversion to give effect to such conversion shall be first approved by the board of trustees or the board of directors, as the case may be, of such corporation. The proposed articles of conversion shall recite in the caption that they are executed pursuant to sections 1 to 18 of this act and shall state:**

**(a) The name of the corporation prior to its conversion into a nonprofit water company;**

**(b) The address of the principal office of such corporation;**

**(c) The date of the filing of the articles of incorporation of such corporation in the office of the secretary of state;**

**(d) The statute or statutes pursuant to which such corporation was organized;**

**(e) The name assumed by such corporation;**

**(f) A statement that such corporation elects to become a nonprofit, membership corporation subject to sections 1 to 18 of this act;**

**(g) The manner and basis of converting either memberships in or shares of stock of such corporation into memberships in the converted corporation after completion of the conversion;**

**(h) The legal description of the territory in which the company intends to operate;**

**(i) The method chosen for distributing the assets of the company upon dissolution;**  
**and**

**(j) Any provisions not inconsistent with sections 1 to 18 of this act deemed necessary or advisable for the conduct of the business and affairs of such corporation;**

**(2) The proposition for the conversion of such corporation into a nonprofit water company and the proposed articles of conversion approved by the board of trustees or board of directors, as the case may be, of such corporation shall then be submitted to a vote of the members or stockholders, as the case may be, of such corporation at any duly held annual or special meeting of such corporation, the notice of which shall set forth full particulars concerning the proposed conversion. The proposition for the conversion of such corporation into a nonprofit water company and the proposed articles of conversion, with such amendments to such articles as the members or stockholders of such corporation shall choose to make, shall be deemed to be approved upon the affirmative vote of not less than a majority of the members of such corporation, or, if such corporation is a stock corporation, upon the affirmative vote of the holders of not less than a majority of the capital stock of such corporation;**

**(3) Upon such approval by the members or stockholders of such corporation, articles of conversion in the form approved by such members or stockholders shall be executed and acknowledged in duplicate on behalf of such corporation by its president or vice president and its corporate seal shall be affixed thereto and attested by its secretary. The president or vice president executing such articles of conversion on behalf of such corporation shall also make and annex to each copy of such articles an affidavit stating that**

the provisions of sections 1 to 18 of this act with respect to the approval of its trustees or directors and its members or stockholders, of the proposition for the conversion of such corporation into a nonprofit water company and such articles of conversion were duly complied with. Such articles of conversion and affidavit shall be submitted to the secretary of state for filing pursuant to sections 1 to 18 of this act. The term "articles of incorporation" as used in sections 1 to 18 of this act shall be deemed to include the articles of conversion of a converted corporation.

**Section 3. A nonprofit water company shall have power:**

- (1) To sue and be sued, in its corporate name;**
- (2) To have succession by its corporate name for the period stated in its articles of incorporation or, if no period is stated in its articles of incorporation, to have such succession perpetually;**
- (3) To adopt a corporate seal and alter the same at pleasure;**
- (4) To provide water treatment services to its members, to governmental agencies and political subdivisions;**
- (5) To make loans to persons to whom water treatment is or will be supplied by the company for the purpose of, and otherwise to assist such persons in, installing therein plumbing fixtures, appliances, apparatus and equipment of any and all kinds and character, and in connection with such installation to purchase, acquire, lease, sell, distribute, install and repair such plumbing fixtures, appliances, apparatus and equipment, and to accept or otherwise acquire, and to sell, assign, transfer, endorse, pledge, hypothecate and otherwise dispose of notes, bonds and other evidences of indebtedness and any and all types of security for such indebtedness;**
- (6) To make loans to persons to whom water treatment is or will be supplied by the company for the purpose of, and otherwise to assist such persons in, constructing, maintaining and operating commercial or industrial plants or facilities;**
- (7) To construct, purchase, take, receive, lease as lessee or otherwise acquire, and to own, hold, use, equip, maintain and operate, and to sell, assign, transfer, convey, exchange, lease as lessor, mortgage, pledge or otherwise dispose of or encumber, water provision or collection or treatment systems, plants, lands, buildings, structures, dams and equipment, and any and all kinds and classes of real or personal property whatsoever, which shall be deemed necessary, convenient or appropriate to accomplish the purpose for which the company is organized;**
- (8) To purchase or otherwise acquire, and to own, hold, use and exercise and to sell, assign, transfer, convey, mortgage, pledge, hypothecate or otherwise dispose of or encumber, franchises, rights, privileges, licenses, rights-of-way and easements;**
- (9) To borrow money and otherwise contract indebtedness, and to issue notes, bonds and other evidences of indebtedness, and to secure the payment of such indebtedness by mortgage, pledge, deed of trust, or any other encumbrance upon any or all of its then-owned or after-acquired real or personal property, assets, franchises, revenues or income;**
- (10) To construct, maintain and operate water distribution and collection and treatment plants and lines along, upon, under and across all public thoroughfares, including without limitation, all roads, highways, streets, alleys, bridges and causeways, and upon, under and across all publicly owned lands, provided that such nonprofit water company complies with any public entity's authority to control the use of its thoroughfares**

for the purposes described in this subsection;

(11) To exercise the power of eminent domain in the manner provided by the laws of this state for the exercise of that power by corporations constructing or operating electric transmission and distribution lines or systems;

(12) To conduct its business and exercise any or all of its powers within or without this state;

(13) To adopt, amend and repeal bylaws; and

(14) To do and perform any and all other acts and things, and to have and exercise any and all other powers which may be necessary, convenient or appropriate to accomplish the purpose for which the company is organized.

**Section 4.** A company may amend its articles of incorporation by complying with the following requirements:

(1) The proposed amendment shall be first approved by the board of directors and shall then be submitted to a vote of the members at any annual or special meeting of such members, the notice of which shall set forth the proposed amendment. The proposed amendment, with such changes as the members shall choose to make to such amendment, shall be approved on the affirmative vote of not less than two-thirds of those members voting on such amendment at such meeting; and

(2) (a) Upon such approval by the members, articles of amendment shall be executed and acknowledged in duplicate on behalf of the company by its president or vice president and its corporate seal shall be affixed thereto and attested by its secretary. The articles of amendment shall recite in the caption that they are executed pursuant to sections 1 to 18 of this act and shall state:

a. The name of the company;

b. The address of its principal office;

c. The date of the filing of its articles of incorporation in the office of the secretary of state; and

d. The amendment to its articles of incorporation.

(b) The president or vice president executing such articles of amendment shall also make and annex to each copy of such articles an affidavit stating that the provisions of sections 1 to 18 of this act were duly complied with.

(c) Such articles of amendment and affidavit shall be submitted to the secretary of state for filing.

**Section 5.** A company may, upon authorization of a majority of the members at any regular or special meeting, change the location of its principal office by filing a certificate of change of principal office, executed and acknowledged in duplicate by its president or vice president under its seal attested by its secretary, in the office of the secretary of state. Such company shall also, within thirty days after the filing of such certificate of change of principal office, file certified copies of its articles of incorporation and all amendments to such articles, if the same are not already on file.

**Section 6. 1.** Articles of incorporation, amendment, consolidation, merger, conversion, or dissolution, as the case may be, when executed and acknowledged in duplicate and accompanied by such affidavits as may be required by applicable provisions of sections 1 to 18 of this act, shall be presented to the secretary of state for filing in the records of the office of the secretary of state.

2. If the secretary of state shall find that the articles presented conform to the requirements of sections 1 to 18 of this act, he or she shall file one copy of the articles so presented in the records of the office of the secretary of state and upon such filing the incorporation, amendment, consolidation, merger, conversion or dissolution provided for in such articles shall be in effect.

Section 7. The provisions of the securities law of this state shall not apply to any note, bond or other evidence of indebtedness issued by any nonprofit water company transacting business in this state pursuant to sections 1 to 18 of this act to the United States of America or to any agency or instrumentality of the United States of America, or to any mortgage or deed of trust executed to secure such indebtedness. The provisions of the securities law of this state shall not apply to the issuance of membership certificates by any nonprofit water company.

Section 8. 1. No person shall become a member of a nonprofit water company unless such person shall agree to use services furnished by the company when such shall be available through its facilities. The bylaws of a company shall provide that any person, including an incorporator, shall cease to be a member of such company if such person shall fail or refuse to use services made available by the company or if services shall not be made available to such person by the company within a specified time after such person shall have become a member of such company. Membership in the company shall not be transferable, except as provided in the bylaws. The bylaws may prescribe additional qualifications and limitations with respect to membership.

2. An annual meeting of the members shall be held at such time as shall be provided in the bylaws.

3. Special meetings of the members may be called by the board of directors, by any three directors, by not less than ten percent of the members or by the president.

4. Meetings of members shall be held at such place as may be provided in the bylaws. In the absence of any such provisions, all meetings shall be held in the city or town in which the principal office of the company is located.

5. Except as otherwise provided in sections 1 to 18 of this act, written or printed notice stating the time and place of each meeting of members and, in the case of a special meeting, the purpose or purposes for which the meeting is called, shall be given to each member, either personally or by mail, not less than ten nor more than twenty-five days before the date of the meeting.

6. Two percent of the members, present in person or by mail or proxy shall constitute a quorum for the transaction of business at all meetings of the members, unless the bylaws prescribe the presence of a greater percentage of the members for a quorum. If less than a quorum is present at any meeting, a majority of those present in person may adjourn the meeting from time to time without further notice.

7. Each member shall be entitled to one vote on each matter submitted to a vote at a meeting. Voting shall be in person, but, if the bylaws so provide, may also be by proxy or by mail, or both. If the bylaws provide for voting by proxy or by mail, they shall also prescribe the conditions under which proxy or mail voting shall be exercised.

Section 9. Notwithstanding any other provision of law, the bylaws may provide that the territory in which a company supplies water services may be divided into two or more voting districts for the purpose of properly distributing its directors over the area in which

its members reside. In such case the bylaws shall prescribe the manner in which such voting districts shall function in the election of directors at annual meetings.

**Section 10. 1.** The business and affairs of a company shall be managed by a board of not less than five directors, each of whom shall be a member of the company. The bylaws shall prescribe the number of directors, their qualifications, other than those provided for in sections 1 to 18 of this act, the manner of holding meetings of the board of directors and of the election of successors to directors who shall resign, die or otherwise be incapable of acting. The bylaws may also provide for the removal of directors from office and for the election of their successors. Without approval of the members, directors shall not receive any salaries for their services as directors. The bylaws may, however, provide that a fixed fee and expenses of attendance, if any, may be allowed to each director for attendance at each meeting of the board of directors.

**2.** The directors of a company named in any articles of incorporation, consolidation, merger or conversion, as the case may be, shall hold office until the next following annual meeting of the members or until their successors shall have been elected and qualified.

**3.** The bylaws shall provide that the directors shall be divided into three classes, each class to be as nearly equal in number as possible, with the term of office of the directors of the first class to expire at the next succeeding annual meeting, the term of the second class to expire at the second succeeding annual meeting and the term of the third class to expire at the third succeeding annual meeting. At each annual meeting after such classification, a number of directors equal to the number of the class whose term expires at the time of such meeting shall be elected to hold office until the third succeeding annual meeting.

**4.** A majority of the board of directors shall constitute a quorum.

**5.** The board of directors may exercise all of the powers of a company except those conferred upon the members by sections 1 to 18 of this act, its articles of incorporation or its bylaws. Nothing in sections 1 to 18 of this act shall be deemed to prohibit a nonprofit water company from contracting with any other person or entity for any services needed by the nonprofit water company including, but not limited to, management or operations services.

**Section 11.** The officers of a nonprofit water company shall consist of a president, vice president, secretary and treasurer, who shall be elected annually. No person shall continue to hold the offices of president or vice president after he or she shall have ceased to be a director. The offices of secretary and of treasurer may be held by the same person and need not be a member of the board of directors. The board of directors may also elect or appoint such other officers, agents or employees as it shall deem necessary or advisable and shall prescribe the powers and duties of such officers, agents and employees. Any officer may be removed from office and such officer's successor elected in the manner prescribed in the bylaws.

**Section 12. 1.** Every nonprofit water company constructing, maintaining and operating its water lines and treatment facilities shall construct, maintain and operate such lines and facilities in conformity with the rules and regulations relating to the manner and methods of construction, maintenance and operation and as to safety of the public with other lines and facilities now or hereafter from time to time prescribed by the department

of natural resources or by law for the construction, maintenance and operation of such lines or systems. The jurisdiction, supervision, powers and duties of the department of natural resources shall extend to every such nonprofit water company so far as it concerns the construction, maintenance and operation of the physical equipment of such company to the extent of providing for the safety of employees and the general public.

2. The public service commission shall not have jurisdiction over the construction, maintenance or operation of the water facilities, service, rates, financing, accounting or management of any nonprofit water company; except that, the public service commission shall have authority to approve the reorganization of any existing company regulated by the public service commission.

Section 13. Revenues of a nonprofit water company for any fiscal year in excess of the amount necessary:

(1) To defray expenses of the company and of the operation and maintenance of its facilities during such fiscal year;

(2) To pay interest and principal obligations of the company coming due in such fiscal year;

(3) To finance, or to provide a reserve for the financing of, the construction or acquisition by the company of additional facilities to the extent determined by the board of directors;

(4) To provide a reasonable reserve for working capital;

(5) To provide a reserve for the payment of indebtedness of the company maturing more than one year after the date of the incurrence of such indebtedness in an amount not less than the total of the interest and principal payments on such indebtedness that are required to be made during the next following fiscal year; and

(6) To provide a fund for education in the effective use of services made available by the company;

shall, unless otherwise determined by a vote of the members, be distributed by the company to its members as patronage refunds prorated in accordance with the patronage of the company by the respective members paid for during such fiscal year.

Section 14. Nothing in sections 1 to 18 of this act shall be construed to prohibit the payment by a company of all or any part of its indebtedness prior to the date when such indebtedness shall become due.

Section 15. 1. A nonprofit water company which has not commenced business may dissolve voluntarily by delivering to the secretary of state articles of dissolution, executed and acknowledged in duplicate on behalf of the company by a majority of the incorporators, which shall state:

(1) The name of the nonprofit water company;

(2) The address of its principal office;

(3) The date of its incorporation;

(4) That the company has not commenced business;

(5) That the amount, if any, actually paid in on account of membership fees, less any part of such fees disbursed for necessary expenses, has been returned to those entitled to such fees and that all easements shall have been released to the grantors;

(6) That no debt of the company remains unpaid; and

(7) That a majority of the incorporators elect that the company be dissolved.

2. Such articles of dissolution shall be submitted to the secretary of state for filing.

**Section 16.** A nonprofit water company which has commenced business may dissolve voluntarily and wind up its affairs in the following manner:

(1) The board of directors shall first recommend that the company be dissolved voluntarily and after such recommendation the proposition that the company be dissolved shall be submitted to the members of the company at any annual or special meeting, the notice of which shall set forth such proposition. The proposed voluntary dissolution shall be deemed to be approved upon the affirmative vote of not less than a majority of the members;

(2) Upon such approval, a certificate of election to dissolve, designated as the certificate, shall be executed and acknowledged in duplicate on behalf of the company by its president or vice president, and its corporate seal shall be affixed thereto and attested by its secretary. The certificate shall state:

(a) The name of the nonprofit water company;

(b) The address of its principal office;

(c) The names and addresses of its directors; and

(d) The total number of members of the company and the number of members who voted for and against the voluntary dissolution of the company.

The president or vice president executing the certificate shall also make and annex to such certificate an affidavit stating that the provisions of this subdivision and subdivision (1) of this section were duly complied with. Such certificate and affidavit shall be submitted to the secretary of state for filing;

(3) Upon the filing of the certificate and affidavit by the secretary of state, the company shall cease to carry on its business except as necessary for the winding up of such business, but its corporate existence shall continue until articles of dissolution have been filed by the secretary of state;

(4) After the filing of the certificate and affidavit by the secretary of state the board of directors shall immediately cause notice of the winding up proceedings to be mailed to each known creditor and claimant. Such notice shall be published once a week for two successive weeks in a newspaper of general circulation in the county in which the principal office of the company is located;

(5) The board of directors shall become trustees and have full power to wind up and settle the affairs of the company and shall proceed to collect the debts owing to the company, convey and dispose of its property and assets, pay, satisfy and discharge its debts, obligations and liabilities and do all other things required to liquidate its business and affairs, and after paying or adequately providing for the payment of all its debts, obligations and liabilities, shall distribute the remainder of its property and assets either:

(a) Among its members in proportion to the aggregate patronage of each such member during the seven years next preceding the date of such filing of the certificate, or, if the company shall not have been in existence for such period, during the period of its existence; or

(b) For one or more exempt purposes as provided in section 501(c)(3) of the Internal Revenue Code of 1986, as amended, or to the federal government or to the state

or a local government or a political subdivision of the state for a public purpose; and

(6) (a) When all debts, liabilities and obligations of the company have been paid and discharged or adequate provision shall have been made for the payment of such debts, liabilities and obligations and all of the remaining property and assets of the company shall, pursuant to sections 1 to 18 of this act and pursuant to the articles of incorporation of the company, have been distributed to the members pursuant to sections 1 to 18 of this act, the board of directors shall authorize the execution of articles of dissolution which shall then be executed and acknowledged on behalf of the company by its president or vice president, and its corporate seal shall be affixed thereto and attested by its secretary. Such articles of dissolution shall recite in the caption that they are executed pursuant to sections 1 to 18 of this act and shall state:

- a. The name of the nonprofit water company;
- b. The address of the principal office of the company;
- c. That the company has heretofore delivered to the secretary of state a certificate of election to dissolve and the date on which the certificate was filed by the secretary of state in the records of his office;
- d. That all debts, obligations and liabilities of the company have been paid and discharged or that adequate provision has been made for the payment of such debts, obligations and liabilities;
- e. That all the remaining property and assets of the company have been distributed pursuant to sections 1 to 18 of this act and the articles of incorporation of the company; and
- f. That there are no actions or suits pending against the company.

(b) The president or vice president executing the articles of dissolution shall also make and annex to such articles an affidavit stating that the provisions of this section were duly complied with.

(c) Such articles of dissolution and affidavit, accompanied by proof of the publication required in this section, shall be submitted to the secretary of state for filing.

Section 17. Sections 1 to 18 of this act shall be construed liberally. The enumeration of any object, purpose, power, manner, method or thing shall not be deemed to exclude like or objects, purposes, powers, manners, methods or things. To the extent that sections 1 to 18 of this act do not speak to an issue, the provisions applicable to mutual benefit not for profit corporations or limited liability companies, as the nonprofit water company may elect in its articles of incorporation, which are not inconsistent with the provisions of sections 1 to 18 of this act shall apply to nonprofit water companies.

Section 18. The private property of the members of a nonprofit water company shall be exempt from execution for the debts of the company and no member shall be liable or responsible for any debts of the company.

Section B. Chapter 66, RSMo, is amended by adding thereto one new section, to be known as section 66.405, to read as follows:

**66.405. 1.** If approved by a majority of the voters voting on the proposal, a county of the first classification having a population of over nine hundred thousand inhabitants may, by ordinance, levy and impose annually, upon water service lines providing water service to residential property having four or fewer dwelling units, on a countywide basis, including both the incorporated and unincorporated areas of such county, a fee not to

exceed one dollar per month or an equivalent rate collected at some other interval.

2. The ballot of submission shall be in substantially the following form:

For the purpose of repair or replacement of water lines extending from the water main to a residential dwelling due to failure of the line or for road relocation, shall ..... county be authorized to impose a fee not to exceed one dollar per month or an equivalent rate collected at some other interval upon all water service lines providing water service within the county to residential property having four or fewer dwelling units for the purpose of paying for the costs of necessary water service line repairs, replacements or relocations caused by improvements to public right-of-way?

**G Yes**

**G No**

3. For the purpose of this section, a water service line may be defined by local ordinance, but may not include the water meter or exceed that portion of water piping and related valves and connectors which extends from the water mains owned by the utility or municipality distributing public water supply to the first opportunity for a connection or joint beyond the point of entry into the premises receiving water service, and may not include facilities owned by the utility or municipality distributing public water supply. For purposes of this section, repair may be defined and limited by local ordinance, and may include replacement, repairs or relocation when made necessary by improvements to public right-of-way.

4. If a majority of the voters voting thereon approve the proposal authorized in subsection 1 of this section, the governing body of the county may enact an ordinance for the collection of such fee. The funds collected pursuant to such ordinance shall be deposited in a special account to be used solely for the purpose of paying for the reasonable costs associated with and necessary to administer and carry out the water service line repairs as defined in the ordinance and, if sufficient revenues are available, to reimburse the necessary costs of water service line repair, replacement or relocation made necessary by public right-of-way improvements.

5. The county may contract with any provider of water service in the county to bill and collect such fees along with bills for water service and to pursue collection of such amounts through discontinuance of service as may be directed by the county. The county may establish, as provided in the ordinance, regulations necessary for the administration of collections, claims, repairs, relocations, replacements and all other activities necessary and convenient for the implementation of any ordinance adopted and approved pursuant to this section. The county may administer the program or may contract with one or more persons, through a competitive process, to provide for administration of any portion of implementation activities of any ordinance adopted and approved pursuant to this section, and reasonable costs of administering the program may be paid from the special account established pursuant to this section.

Section C. Chapter 91, RSMo, is amended by adding thereto one new section, to be known as section 91.055, to read as follows:

91.055. Notwithstanding any other provision of law to the contrary, in a county of the first classification with a charter form of government and having a population of more than six hundred thousand but less than nine hundred thousand inhabitants, any person who is a water service customer of any municipality located in whole or in part in such county may continue to receive water service from such municipality even in the event that

**a public water supply district shall claim the exclusive right to provide water service to such person.**

Section D. Due to the immediate need to provide assistance for repair and maintenance of water service lines in certain counties, sections B and C of this act are deemed necessary for the immediate preservation of the public health, welfare, peace and safety, and are hereby declared to be an emergency act within the meaning of the constitution, and sections B and C of this act shall be in full force and effect upon their passage and approval.

Unofficial

Bill

Copy