

SENATE SUBSTITUTE  
FOR  
SENATE BILL NO. 184

AN ACT

To amend chapter 393, RSMo, by adding thereto three new sections relating to certain public utilities.

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BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF MISSOURI,  
AS FOLLOWS:

1           Section A. Chapter 393, RSMo, is amended by adding thereto  
2 three new sections, to be known as sections 393.323, 393.1600,  
3 and 393.1605, to read as follows:

4           393.323. 1. As used in this section, the following terms  
5 shall mean:

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

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

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

17           2. The commission shall not grant a certificate of  
18 convenience and necessity under subsection 1 of section 393.170  
19 to any very small sewer corporation or very small water

1 corporation until the applicant seeking such certificate  
2 furnishes evidence of its operational and financial feasibility.  
3 In addition to other requirements the commission may establish by  
4 rule, the applicant shall provide a feasibility study that  
5 includes plans and specifications for the sewer or water system,  
6 the estimated cost of construction and operation of the system  
7 during the first three years of operation, plans for financing,  
8 proposed rates and charges, and an estimate of the number of  
9 customers, revenues, and expenses. If the applicant proposes to  
10 acquire or construct the water or sewer system through the  
11 issuance of debt financing, and such financing is not provided by  
12 an eligible lending institution, the applicant shall demonstrate  
13 that the terms and conditions of such debt financing are  
14 reasonable. In addition to other requirements the commission may  
15 establish by rule, the applicant for a certificate of convenience  
16 and necessity for a very small water corporation or very small  
17 sewer corporation shall demonstrate that it has the capability to  
18 construct and operate such a water or sewer system, including  
19 evidence from the Missouri department of natural resources and  
20 local authorities, if applicable, that it has all necessary  
21 construction and operating permits and licenses. In issuing a  
22 certificate of convenience and necessity to a very small sewer  
23 corporation or very small water corporation, the commission may  
24 establish conditions that are reasonable in the circumstances,  
25 including a requirement that the very small sewer corporation or  
26 very small water corporation submit to a periodic review of the  
27 reasonableness of its rates, no less frequently than once every  
28 five years.

1           3. In establishing the rates for service rendered by a very  
2 small sewer corporation or very small water corporation, the  
3 commission shall approve for recovery in rates only those  
4 operating and capital costs that are prudently and reasonably  
5 incurred. The very small sewer corporation or very small water  
6 corporation shall have the burden of establishing the prudence of  
7 its operating and capital costs. In determining the prudence of  
8 any operating or capital cost, the commission may consider  
9 whether such cost was determined by a competitive bid process.  
10 In addition, in determining the prudence of a capital project,  
11 the commission may consider whether such project was reviewed and  
12 approved by the Missouri department of natural resources.

13           4. No entity may acquire either the stock or the assets of  
14 a very small sewer corporation or very small water corporation  
15 without first obtaining approval from the commission. In the  
16 event that an entity seeks approval from the commission to  
17 acquire either the stock or the assets of a very small sewer  
18 corporation or very small water corporation, the commission shall  
19 not approve such acquisition unless it finds that such  
20 acquisition is not detrimental to the public interest. In making  
21 that finding, the commission shall examine the operational and  
22 financial capability of the acquiring entity. If the acquiring  
23 entity proposes to issue debt to finance all or a part of the  
24 acquisition and such debt is not being provided by an eligible  
25 lending institution, the acquiring entity, as part of its  
26 application, shall provide evidence of the reasonableness of the  
27 terms and conditions of such debt financing.

28           5. The commission shall have the authority to promulgate

1 rules to implement the provisions of this section. Any rule or  
2 portion of a rule, as that term is defined in section 536.010  
3 that is created under the authority delegated in this section  
4 shall become effective only if it complies with and is subject to  
5 all of the provisions of chapter 536, and, if applicable, section  
6 536.028. This section and chapter 536 are nonseverable and if  
7 any of the powers vested with the general assembly pursuant to  
8 chapter 536, to review, to delay the effective date, or to  
9 disapprove and annul a rule are subsequently held  
10 unconstitutional, then the grant of rulemaking authority and any  
11 rule proposed or adopted after August 28, 2017, shall be invalid  
12 and void.

13 393.1600. 1. The provisions of section 386.020 defining  
14 words, phrases, and terms shall apply to and determine the  
15 meaning of all such words, phrases, or terms as used this section  
16 and section 393.1605.

17 2. As used in this section and section 393.1605, the  
18 following terms shall mean:

19 (1) "Actual revenue", the revenues billed by a water or  
20 sewer corporation for the customer classes of residential,  
21 commercial, public authority, and sale for resale during the  
22 annual period, exclusive of commission approved surcharges such  
23 as infrastructure system replacement surcharge adjustments  
24 approved under sections 393.1000 to 393.1015, and environmental  
25 cost adjustments approved under subsection 2 of section 386.266;

26 (2) "Actual production costs", the actual cost of  
27 chemicals, power, purchased water, and waste disposal during the  
28 annual period;

1       (3) "Annual period", twelve months beginning on the first  
2 day of the first month following the effective date of rates from  
3 the general rate proceeding of a water or sewer corporation  
4 requesting an RSM for the first time, and every twelve-month  
5 period thereafter while the RSM is in effect;

6       (4) "Authorized revenue", the revenue requirement  
7 associated with the customer classes of residential, commercial,  
8 public authority, and sale for resale for the annual period set  
9 by the commission in a general rate proceeding, exclusive of  
10 commission approved surcharges such as infrastructure system  
11 replacement surcharge adjustments approved under sections  
12 393.1000 to 393.1015, and environmental cost adjustments approved  
13 under subsection 2 of section 386.266;

14       (5) "Authorized production costs", the cost of chemicals,  
15 power, purchased water, and waste disposal for the annual period  
16 set by the commission in a general rate proceeding;

17       (6) "Recovery period", the period the commission approves  
18 for administering RSM adjustments, not to exceed twelve months;

19       (7) "RSM", revenue stabilization mechanism;

20       (8) "Tariff district", water or sewer corporation operating  
21 districts with the same tariff rates.

22       393.1605. 1. Subject to the requirements of this section,  
23 any water or sewer corporation may request in a general rate  
24 proceeding, and the commission shall approve, as provided in this  
25 section, RSM rate schedules authorizing periodic rate adjustments  
26 outside of general rate proceeding to ensure actual revenues,  
27 minus actual production costs do not vary from authorized  
28 revenues, minus authorized production costs due to the following

1 factors:

2 (1) For sewer corporations, any variation due to increases  
3 or decreases in residential, commercial, public authority, and  
4 sale for resale usage;

5 (2) For water corporations, any variation due to increases  
6 or decreases in residential, commercial, public authority, and  
7 sale for resale usage.

8 2. The RSM rate schedules shall account and adjust for  
9 revenue variations within each applicable customer class by  
10 tariff district, minus production cost variations. Systems  
11 acquired by a water or sewer corporation utilizing an RSM shall  
12 be excluded from RSM rate schedules until the acquiring water or  
13 sewer corporation's next general rate proceeding.

14 3. Within thirty days of the last day of each annual  
15 period, the water or sewer corporation shall file an RSM rate  
16 schedule or revised rate schedule to credit or surcharge each  
17 applicable customer class by tariff district over the recovery  
18 period for the difference between the actual revenues, minus  
19 actual production costs during the preceding annual period and  
20 the authorized revenues, minus authorized production costs  
21 determined in the corporation's most recently completed general  
22 rate proceeding. Any surcharge resulting from the RSM will be  
23 applied by a volumetric rate by customer class by tariff district  
24 and collected during the recovery period, while any credit will  
25 be allocated equally among customers within each customer class  
26 by tariff district and applied as a one-time lump sum credit on  
27 the customer's utility bill as soon as administratively feasible.  
28 For residential customers, the annual total of any RSM

1 adjustments surcharged to customers shall not be designed to  
2 exceed a per customer average of four dollars per month. For  
3 commercial, public authority, and sale for resale customers, the  
4 annual total of any RSM adjustments surcharged to customers shall  
5 not be designed to exceed a per customer average of ten percent  
6 of the charges for those customers. Any revenue deficiency not  
7 recovered because of this limitation shall be deferred for  
8 recovery in a subsequent recovery period, in the corporation's  
9 next general rate case, or a complaint proceeding, and count  
10 toward the subsequent year's surcharge amount. In each  
11 subsequent general rate proceeding, the dollar cap referenced in  
12 this section shall be adjusted up or down by a percentage amount  
13 equal to the net percentage increase or decrease in the Consumer  
14 Price Index for All Urban Consumers since the revenue  
15 stabilization rate schedules first went into effect. The dollar  
16 cap shall also be adjusted upward by an amount equal to any  
17 decrease in the fixed monthly customer charge for residential  
18 customers that may be approved by the commission in such general  
19 rate proceeding.

20 4. The annual RSM filings shall include a reconciliation  
21 component that will compare the approved RSM adjustment revenues  
22 to the actual RSM adjustment revenues. The difference between  
23 the two shall be included in the RSM adjustment calculation to be  
24 surcharged or credited during the following recovery period.

25 5. Any RSM rate schedule or revised RSM rate schedule filed  
26 by a water or sewer corporation shall become effective within  
27 thirty days. The commission shall review such rate schedules for  
28 the exclusive purpose of:

1           (1) Determining whether the authorized revenue and  
2 authorized production costs used in the rate schedules are  
3 consistent with the revenue and production costs used to set  
4 rates in the water or sewer corporation's most recent general  
5 rate proceeding;

6           (2) Determining whether any subsequent revisions to such  
7 rate schedules accurately reflect the difference between the  
8 actual revenues billed, minus actual production costs during the  
9 annual period under review and the authorized revenues, minus  
10 authorized production costs in the corporation's most recent  
11 general rate proceeding;

12           (3) Determining whether the production costs were prudently  
13 incurred, and disallowing any imprudently incurred costs; and

14           (4) Ordering any adjustments to the water or sewer  
15 corporation's next RSM rate schedule filing that may be necessary  
16 to achieve these outcomes. Any such order making adjustments to  
17 the RSM rate schedule shall be effective no later than thirty  
18 days after the date of issuance of such order.

19           6. A water or sewer corporation utilizing a RSM shall  
20 submit a report in the initial filing of each subsequent general  
21 rate proceeding on the changes in water demands and the measures  
22 such corporations have taken to educate consumers and promote  
23 water efficiency.

24           7. A water or sewer corporation's RSM rate schedules shall  
25 be updated to reflect its authorized revenue and production cost  
26 amounts in each general rate proceeding.

27           8. After January 1, 2027, any party may request the  
28 commission review the authorization of the RSM in a complaint

1 case or in a general rate proceeding of a water or sewer  
2 corporation utilizing the RSM. In any such proceeding, the  
3 burden of proof shall be upon the party requesting the review or  
4 filing the complaint to show by clear and satisfactory evidence  
5 that the RSM is detrimental to the public interest. If the  
6 commission finds the RSM is detrimental to the public interest,  
7 the commission may modify the RSM or reject its reauthorization.  
8 If the commission does not find the RSM to be detrimental to the  
9 public interest, the RSM shall be reauthorized and shall not be  
10 reviewed for ten more years, after which any party may request  
11 the commission review the RSM in a complaint case or general rate  
12 proceeding.

13 9. A water or sewer corporation may terminate such RSM rate  
14 schedules in a general rate proceeding, provided that the  
15 commission shall order any rate adjustments necessary to return  
16 to, or recover from, customers the difference between the actual  
17 revenues, minus actual production costs during the last annual  
18 period and the authorized revenues, minus authorized production  
19 costs in the corporation's most recently completed general rate  
20 proceeding.

21 10. No later than December 31, 2027, the commission shall  
22 prepare and file with the secretary of the senate and the chief  
23 clerk of the house of representatives of the general assembly a  
24 report on what impact, if any, the implementation of RSM rate  
25 schedules have had on water and sewer corporations and their  
26 customers. Participating water and sewer corporations shall  
27 cooperate in good faith to provide the data necessary for the  
28 preparation of the report required by this subsection.

1           11. The commission shall have authority to promulgate rules  
2 for the implementation of sections 393.1600 to 393.1605. Any  
3 rule or portion of a rule, as that term is defined in section  
4 536.010 that is created under the authority delegated in this  
5 section shall become effective only if it complies with and is  
6 subject to all of the provisions of chapter 536, and, if  
7 applicable, section 536.028. This section and chapter 536 are  
8 nonseverable and if any of the powers vested with the general  
9 assembly pursuant to chapter 536, to review, to delay the  
10 effective date, or to disapprove and annul a rule are  
11 subsequently held unconstitutional, then the grant of rulemaking  
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