

# SENATE BILL NO. 567

102ND GENERAL ASSEMBLY

INTRODUCED BY SENATOR CIERPIOT.

2229S.01H

KRISTINA MARTIN, Secretary

## AN ACT

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

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

Section A. Sections 393.320 and 393.1506, RSMo, are repealed and two new sections enacted in lieu thereof, to be known as sections 393.320 and 393.1506, to read as follows:

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

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

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

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

(2) "Small water utility", a public utility that regularly provides water service or sewer service to eight

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

19 thousand or fewer customer connections; a water district  
20 established under the provisions of chapter 247 that  
21 regularly provides water or sewer service to eight thousand  
22 or fewer customer connections; a sewer district established  
23 under the provisions of chapter 204, 249, or 250 that  
24 regularly provides sewer service to eight thousand or fewer  
25 customer connections; or a water system or sewer system  
26 owned by a municipality that regularly provides water  
27 service or sewer service to eight thousand or fewer customer  
28 connections; and all other entities that regularly provide  
29 water service or sewer service to eight thousand or fewer  
30 customer connections.

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

36 3. (1) An appraisal shall be performed by three  
37 appraisers. One appraiser shall be appointed by the small  
38 water utility, one appraiser shall be appointed by the large  
39 water public utility, and the third appraiser shall be  
40 appointed by the two appraisers so appointed. Each of the  
41 appraisers shall be a disinterested person who is a  
42 certified general appraiser under chapter 339.

43 (2) The appraisers shall:

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

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

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

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

58 5. (1) The lesser of the purchase price or the  
59 appraised value, together with the reasonable and prudent  
60 transaction, closing, and transition costs incurred by the  
61 large water public utility, shall constitute the ratemaking  
62 rate base for the small water utility as acquired by the  
63 acquiring large water public utility; provided, however,  
64 that if the small water utility is a public utility subject  
65 to chapter 386 and the small water utility completed a rate  
66 case prior to the acquisition, the public service commission  
67 may select as the ratemaking rate base for the small water  
68 utility as acquired by the acquiring large water public  
69 utility a ratemaking rate base in between:

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

75 (b) The ratemaking rate base of the small water  
76 utility as ordered by the public service commission in the  
77 small water utility's last previous rate case as adjusted by  
78 improvements and depreciation reserve since the previous  
79 rate case together with the transaction, closing, and  
80 transition costs incurred by the large water public utility

81 unless such transaction, closing, and transition costs are  
82 elsewhere recoverable in rates. If the small water utility  
83 and large water public utility proceed with the sale, any  
84 past-due fees due to the state from the small water utility  
85 or its customers under chapter 640 or 644 shall be resolved  
86 prior to the transfer of ownership or the liability for such  
87 past-due fees becomes the responsibility of the large water  
88 public utility. Such fees shall not be included in the  
89 large water public utility's rate base.

90 (2) The public service commission shall issue its  
91 decision establishing the ratemaking rate base of the small  
92 water utility in its order approving the acquisition **within**  
93 **six months of the submission of the application by the large**  
94 **water public utility to acquire a small water utility.**

95 6. Upon the date of the acquisition of a small water  
96 utility by a large water public utility, whether or not the  
97 procedures for establishing ratemaking rate base provided by  
98 this section have been utilized, the small water utility  
99 shall, for ratemaking purposes, become part of an existing  
100 service area, as defined by the public service commission,  
101 of the acquiring large water public utility that is either  
102 contiguous to the small water utility, the closest  
103 geographically to the small water utility, or best suited  
104 due to operational or other factors. This consolidation  
105 shall be approved by the public service commission in its  
106 order approving the acquisition.

107 7. Any new permit issued pursuant to chapters 640 and  
108 644, when a small water utility is acquired by a large water  
109 public utility, shall include a plan to resolve all  
110 outstanding permit compliance issues. After the transfer of  
111 ownership, the acquiring large public water utility shall

112 continue providing service to all customers that were served  
113 by the small water utility at the time of sale.

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

393.1506. 1. Notwithstanding any provisions of  
2 chapter 386 and this chapter to the contrary, a [water or  
3 sewer corporation] **public utility** that provides water [or  
4 sewer] service to more than eight thousand customer  
5 connections, **sewer service to more than eight thousand**  
6 **customer connections, or water or sewer service to an**  
7 **aggregate of more than eight thousand customer connections**  
8 may file a petition and proposed rate schedules with the  
9 commission to establish or change a WSIRA that will provide  
10 for the recovery of the appropriate pretax revenues  
11 associated with the eligible infrastructure system projects,  
12 less the appropriate pretax revenues associated with any  
13 retired utility plant that is being replaced by the eligible  
14 infrastructure system projects. The WSIRA shall not produce  
15 revenues in excess of fifteen percent of the water or sewer  
16 corporation's base revenue requirement approved by the  
17 commission in the water or sewer corporation's most recent  
18 general rate proceeding; provided, however, that neither  
19 WSIRA revenues attributable to replacement of customer-owned  
20 lead service lines, nor any reconciliation amounts described  
21 in subdivision (2) of subsection 5 of section 393.1509,

22 shall count toward the program cap. The WSIRA and any  
23 future changes thereto shall be calculated and implemented  
24 in accordance with the provisions of sections 393.1503 to  
25 393.1509. WSIRA revenues shall be subject to refund based  
26 upon a finding and order of the commission, to the extent  
27 provided in subsections 5 and 8 of section 393.1509.

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

35 3. In no event shall a water or sewer corporation  
36 collect a WSIRA for a period exceeding three years unless  
37 the water or sewer corporation has filed for or is the  
38 subject of a pending general rate proceeding; provided that  
39 the WSIRA may be collected until the effective date of new  
40 rate schedules established as a result of the new general  
41 rate proceeding or until the subject general rate proceeding  
42 is otherwise decided or dismissed by issuance of a  
43 commission order without new rates being established.

44 4. Except as provided in this subsection, in no event  
45 shall a water or sewer corporation collect a WSIRA if also  
46 collecting revenues from a commission approved  
47 infrastructure system replacement surcharge as provided in  
48 sections 393.1000 to 393.1006. In no event shall a customer  
49 be charged both an infrastructure system replacement  
50 surcharge as provided in sections 393.1000 to 393.1006 and a  
51 WSIRA. In the event a water or sewer corporation is  
52 collecting infrastructure system replacement surcharge  
53 revenues under sections 393.1000 to 393.1006, that was

54 approved prior to August 28, 2021, when the initial WSIRA is  
55 filed, the approved infrastructure system replacement  
56 surcharge revenues shall be included in the new WSIRA filing.

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