

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 0809H.07T
 Bill No.: Truly Agreed To and Finally Passed HCS for SS for SB 44
 Subject: Utilities; Public Service Commission; Water Resources and Water Districts
 Type: Original
 Date: June 8, 2021

Bill Summary: This proposal modifies provisions relating to utilities.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2022	FY 2023	FY 2024
General Revenue*	\$0 to (Unknown)	\$0 to (Unknown)	\$0 to (Unknown)
Total Estimated Net Effect on General Revenue	\$0 to (Unknown)	\$0 to (Unknown)	\$0 to (Unknown)

* OA-FMDC assumes that the maximum possible increase in water and sewer costs that could occur because of this legislation would be a 15% maximum potential increase in water and sewer of \$417,852.99; however, since it is unknown what eligible projects these companies would engage in or what rate adjustments would be approved by the Public Service Commission (if any), Oversight will reflect a range from \$0 (no utility will increase rates) to an unknown cost

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2022	FY 2023	FY 2024
Public Service Commission Fund (0607)*	Unknown to (\$219,620)	Unknown to (\$258,013)	Unknown to (\$260,463)
Other State Funds	\$0 to (Unknown)	\$0 to (Unknown)	\$0 to (Unknown)
Blind Pension Fund (0621)	\$0	\$0	Unknown to (Unknown)
Total Estimated Net Effect on Other State Funds	Unknown to (Could exceed \$219,620)	Unknown to (Could exceed \$358,013)	Unknown to (Could exceed \$260,463)

*The positive unknown is from §386.370, which raises the cap on the assessment that the Public Service Commission is allowed to levy utilities to fund their organization.

Numbers within parentheses: () indicate costs or losses.

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2022	FY 2023	FY 2024
Total Estimated Net Effect on <u>All</u> Federal Funds	\$0	\$0	\$0

ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)			
FUND AFFECTED	FY 2022	FY 2023	FY 2024
Public Service Commission Fund (0607)	0 to 2.45 FTE	0 to 2.45 FTE	0 to 2.45 FTE
Total Estimated Net Effect on FTE	0 to 2.45 FTE	0 to 2.45 FTE	0 to 2.45 FTE

Estimated Net Effect (expenditures or reduced revenues) expected to exceed \$250,000 in any of the three fiscal years after implementation of the act or at full implementation of the act.

Estimated Net Effect (savings or increased revenues) expected to exceed \$250,000 in any of the three fiscal years after implementation of the act or at full implementation of the act.

ESTIMATED NET EFFECT ON LOCAL FUNDS			
FUND AFFECTED	FY 2022	FY 2023	FY 2024
Local Government	\$0 to (Unknown)	\$0 to (Unknown)	Unknown to (Unknown)

FISCAL ANALYSIS

ASSUMPTION

Sections 153.030 & 153.034 – Assessment of Certain Public Utility Property

Officials from the **State Tax Commission (STC)** have reviewed this proposal and determined schools, fire districts and cities, counties in which the real and personal property of any public utility that utilizes Chapter 100 that has tax situs would realize an unknown positive fiscal impact with the inclusion of the entire value of the Chapter 100 real and personal property of the generation portion held by a utility (determined by depreciated cost) as part of their (local) tax base. The act proposes that said property will be valued locally and the value would stay with local taxing districts in which the property is located. School districts and other local taxing jurisdictions that may have miles of line within their district, but not the Chapter 100 assessment assets, would lose that valuation in their tax base. The fiscal impact would be unknown in both circumstances as it would be dependent on the amount of depreciation, size and scope of said Chapter 100 property. The proposed depreciation is based on the cost information for the generation portion from the Federal Energy Regulatory Commission filed report at transfer of ownership "and depreciate the costs provided in a manner similar to other commercial and industrial property".

In current law, property of electric companies (state centrally assessed) are categorized as "local property" and "distributable property" for ad valorem purposes. The value of all distributable is apportioned to the local taxing districts according to the number of miles of line in the counties and districts. All taxing districts with miles of line in a county that a centrally assessed company serves, shares the ad valorem valuation of all distributable property. In contrast, the value of local property stays with the local taxing districts in which the property is located.

In response to a similar proposal from this year (SB 92), officials from the **Office of Administration - Budget and Planning (B&P)** assumed this provision may impact TSR. This provision may impact the calculation under Article X, Section 18(e).

This proposal states that if any public utility company has ownership of any property associated with a generation project that was constructed using public financing under Chapter 100, that property shall be taxed by a county assessor under Chapter 137.

Beginning January 1, 2022, any public utility company assessed under Chapter 153 that has property associated with a generation project that was constructed using public financing under Chapter 1000 shall be assessed using the following methodology:

- All qualifying property shall be assessed at the local level, and not by the State Tax Commission. The local assessor must use cost information from the public utility

company and shall then depreciate the costs similar to other commercial and industrial property.

- Land and buildings related to the qualifying generation project shall be assessed under Chapter 137.
- All other business or personal property related to the generation project shall be assessed using Section 137.122.

B&P notes that the term “generation project” is not defined and could include: solar, thermal, coal, nuclear, hydroelectric, gas, or other forms of energy generation.

B&P notes that currently, public utilities are assessed property taxes under Chapter 153. In the event that a public utility was to purchase or build qualifying generation project property, the qualifying property would instead be assessed under Chapter 137. B&P further notes that the two methods are not identical and may have a significant positive or negative impact on local revenues depending on the physical location of the public utility’s property. In addition, if the assessed value of such property differs between the county assessor methodology under Chapter 137 and the STC methodology under Chapter 153, then this proposal may impact revenues to the Blind Pension Trust Fund.

Upon further inquiry, the **Department of Commerce and Insurance** stated their response was related to the operations of the Public Service Commission only. It does not contemplate any impact to public utilities.

In response to a similar proposal from this year (SB 92), officials from the **City of Kansas City** stated this legislation provides that real and personal property tax of any public utility company that utilizes Chapter 100 financing be assessed only upon the county assessor’s local tax rolls. As the City collects taxes from utilities directly, this would result in a negative fiscal impact.

In response to a similar proposal from this year (SB 92), officials from the **Boone County Assessor’s Office** stated Boone County has not used Chapter 100 financing for any projects of this nature. Counties which have financed projects of this nature would benefit financially.

In response to the previous version, officials from the **City of Hale** and the **Metropolitan St. Louis Sewer District** each assumed the proposal would have a fiscal impact on their respective organizations.

Oversight assumes this proposal would change the way public utilities utilizing Chapter 100 financing are assessed. Currently, they are centrally assessed and distributable. This proposal would require these public utilities to be assessed at the local level and would no longer be distributable.

Oversight notes the Blind Pension Fund (0621) is calculated as an annual tax of three cents on each one hundred dollars valuation of taxable property $((\text{Total Assessed Value}/100)*.03)$. Oversight assumes this proposal could have an unknown impact (positive or negative) on tax

revenues to the Blind Pension Fund if the locally assessed values differ from the centrally assessed values.

Oversight assumes to reach a revenue impact of \$250,000 in the Blind Pension Fund would require a change in assessed value of approximately \$830 million. Oversight assumes it is unlikely the difference between the centrally assessed valuation and locally assessed valuation would differ to that degree. Therefore, Oversight assumes the impact on the Blind Pension Fund would be less than \$250,000 for this section.

Oversight assumes local taxing entities with tax situs would experience an unknown positive impact while local taxing entities with property that is no longer centrally assessed and distributable would experience an unknown negative impact.

Additionally, **Oversight** notes property tax revenues are generally designed to be revenue neutral from year to year. The tax levy is adjusted relative to the assessed value to produce roughly the same revenue from the prior year with an allowance for growth. Therefore, Oversight assumes this proposal could impact property tax levies.

Oversight assumes public utilities could experience an impact if the centrally assessed valuation and locally assessed valuation differ causing a change in the amount of property taxes owed. Oversight will show an unknown impact (positive or negative) for public utilities using Chapter 100 financing.

Although the effective date of this proposal, if passed, would be FY 2022 (August 2021), the next re-assessment cycle would not occur until calendar year 2023 with impacted revenues occurring in FY 2024 (December 2023).

§204.569 –Provisions Relating to Common Sewer Districts

In response to a similar proposal from this year (SB 558), officials from the **Little Blue Valley Sewer District** assumed a direct impact on their ability to issue bonds for expansion of their sewer plant. The sewer district is a very small portion of the county and a vote in the county to allow for additional debt could have an adverse outcome. Due to the growth of the County in the area they serve, they are in need of expanding their sewer treatment plant. In order to complete the expansion, they need to issue debt. This gives them the ability to go directly to their customers for approval.

Oversight assumes this proposal modifies the provisions for subdistricts which are part of a common sewer district in certain counties (Jackson and Cass) to issue bonds for the subdistrict. This proposal changes the percentage of voters required to assent from 4/7th of voters of the subdistrict voting to 3/4th of the customers of the subdistrict as defined in §204.370. Oversight assumes §204.569 is codifying statute to reflect the same percentage as §204.370 and will have no direct fiscal impact.

§386.370 – Public Utility Assessment Rates

In response to a similar proposal from this year (SCS for SB 280), officials from the **Department of Commerce and Insurance – Public Service Commission (PSC)** stated that by statute, the PSC assessment is simply the PSC actual costs, not to exceed .25% of aggregate regulated utility revenues. The assessment varies from year to year depending on PSC expenses. The .25% is the current statutory maximum that is allowed to assess, not the rate at which the PSC actually assess.

The PSC notes that recently, utility revenue has been flat and declining in some years, causing the PSC assessment to be close to the .25% cap. SB 280 proposes to change the maximum from .25% to .315%. By doing so, the PSC will be able to continue assessing PSC costs as required by statute. That doesn't mean the PSC will necessarily increase the assessment. In fact, PSC anticipates the assessment will decrease this year.

Oversight does not have any information to the contrary. Therefore, Oversight will assume this change may have a positive impact to the Public Service Commission Fund.

§§386.800 & 394.020 – Service Territories of Retail Electric Service Providers

In response to a similar proposal from this year (SB 334), officials from the **City of Springfield** stated that the city anticipates a negative fiscal impact due to impact on City Utility (CU) (a utility company owned by the City of Springfield) service territory; however, it is not possible to estimate the amount.

The City states that under current law, if the city annexes an area being served by a rural electric cooperative, then CU would have the exclusive right to serve all new structures constructed in the newly annexed area. Under the proposed bill, CU would not have the exclusive right to serve those new structures in the annexed area, but which utility provides service would be determined by the Missouri Public Service Commission or the impacted owner of the structure. Therefore, there could be a negative impact on CU's service area, but it is not possible to determine the amount because it is unknown how many services in areas which CU currently has exclusive rights to serve would be provided by a rural electric cooperative instead.

Oversight assumes this legislation could affect all local political subdivisions that own a city utility company. Since it is unknown how many (if any) annexed areas will choose to continue service with a rural electric cooperative instead of using a City Utility or the PSC determines the new structure should be serviced by another utility company other than a City Utility, Oversight will reflect the fiscal impact to Local Political Subdivisions as \$0 or (Unknown).

§393.106 – Replacement of Demolished Structure

Officials from the **Department of Commerce and Insurance – Public Service Commission (PSC)** state the fiscal impact of this section of the legislation is unknown.

The PSC is funded by an assessment on Commission-regulated public utilities pursuant to Section 386.370 RSMo, and not by any state general appropriations. Depending on the cumulative effect of all PSC impacting legislation passed in the current session and the associated increased costs associated with that legislation to the PSC, the PSC may need to request an increase in our appropriation authority and/or FTE allocation as appropriate through the budget process.

Oversight assumes PSC is provided with core funding to handle a certain amount of activity each year. Oversight assumes PSC could absorb the costs related to this proposal. If multiple bills pass which require additional staffing and duties at substantial costs, PSC could request funding through the appropriation process.

§§393.358, 393.1500 - 393.1509 - Missouri Water and Sewer Infrastructure Act

Officials from the **Department of Commerce and Insurance (DCI) - Public Service**

Commission (PSC) assume the proposed bill would allow water or sewer companies with at least 8,000 connections to file a petition and proposed rate schedule with the Public Service Commission (PSC) to create or change Missouri Water and Sewer Infrastructure Act (WSIRA) charge between general rate cases, but no more than twice in a twelve month period.

If passed, the bill will likely result in at least two additional cases each year. If this forecast is accurate, this will result in a significant incremental workload for the Commission. At this time, the PSC estimates that enactment of this bill would require the addition of at least two FTE, one being a Utility Regulatory Engineer I and the other a Utility Regulatory Auditor III. Additionally, the PSC anticipates workload increases for other existing staff, particularly for three specific positions: Regulatory Law Judge, Chief Counsel, and Legal Counsel. However, the workload increases for those three positions do not exceed a full new FTE for each respective position.

Since it is unknown what eligible projects companies would engage in or what rate adjustments would be approved by the Public Service Commission (if any), **Oversight** will reflect a range of \$0 to the estimate administrative cost provided by the DCI-PSC of \$219,620 in FY 2022, \$258,013 in FY 2023 and \$260,463 in FY 2024.

Officials from the **Department of Commerce and Insurance – Office of Public Council** assume this legislation would increase the workload of the OPC staff because it will require review of up to two additional annual filings for each large water company, with a greatly expanded base of eligible project costs to be reviewed in each petition. A fiscal impact on the OPC is not anticipated. However, should the extent of the work be more than anticipated, the department would request additional appropriation and/or FTE through the budget process.

Oversight does not have any information to the contrary. Therefore, Oversight will reflect a zero impact in the fiscal note for the Office of Public Council.

Officials from the **Office of Administration - Facilities Management Design and Construction (OA-FMDC)** assume this bill creates the Missouri Water and Sewer Infrastructure Act, which specifies that a water or sewer corporation may file a petition and proposed rate schedules with the Public Service Commission to create or change a water and sewer infrastructure rate adjustment (WSIRA) that provides for the recovery of pretax revenues associated with eligible infrastructure projects.

Section 393.1506 states that the WSIRA individually, or when combined with an infrastructure system replacement surcharge shall not produce revenues in excess of fifteen percent of the water or sewer corporation's base revenue.

OA-FMDC assumes this proposal could increase utility costs for OA, other state agencies and for local governments. However, the amount of increase, if any, is unknown because OA-FMDC has no way of knowing what eligible projects companies would engage in or what rate adjustments would be approved by the Public Service Commission.

OA-FMDC assumes that the maximum possible increase in water and sewer costs that could occur because of this legislation would be 15% based on section 393.1506, although not directly applicable.

Using a three-year average (FY17 - FY19) and a 15% increase, the maximum potential increase in water and sewer costs to OA-FMDC is \$417,852.99 (see below). OA-FMDC estimates the impact of this bill is \$0 to \$417,852.99.

	2017	2018	2019	3 Year Total	3 Year Average	15% Increase
Water	\$ 1,036,487.97	\$ 1,005,759.16	\$ 1,176,095.41	\$ 3,218,342.54	\$ 1,072,780.85	\$ 160,917.13
Sewer	\$ 1,644,132.17	\$ 1,731,695.02	\$ 1,762,889.98	\$ 5,138,717.17	\$ 1,712,905.72	\$ 256,935.86
	\$ 2,680,620.14	\$ 2,737,454.18	\$ 2,938,985.39	\$ 8,357,059.71	\$ 2,785,686.57	\$ 417,852.99

Oversight assumes this proposal allows a water or sewer corporation to file a petition and proposed rate schedules with the Public Service Commission to create or change a water and sewer infrastructure rate adjustment (WSIRA) that provides for the recovery of pretax revenues associated with eligible infrastructure projects. Oversight assumes this proposal could increase utility cost for the Office of Administration as well as other state agencies and local governments. Since it is unknown what eligible projects companies would engage in or what rate adjustments would be approved by the Public Service Commission (if any), Oversight will reflect a range from \$0 (no utility will increase rates) to an unknown cost to the General Revenue Fund, other state funds and local political subdivisions.

In response to a previous version, officials from the **City of Corder** assumed this section of the proposal would fiscally impact their city. The City of Corder does not have current estimates on infrastructure improvements needed at this time.

Bill as a Whole:

Officials from the **Attorney General's Office**, the **Department of Natural Resources**, the **Department of Revenue**, the **Missouri Department of Transportation**, the **Office of the State Auditor**, the cities: **Claycomo, Kansas City, O'Fallon** and the utilities: **Hancock Street Light District, Little Blue Valley Sewer District, Metropolitan St. Louis Sewer District, South River Drainage District** and **Wayne County Pwsd** each assume the proposal will have no fiscal impact on their respective organizations. **Oversight** does not have any information to the contrary. Therefore, Oversight will reflect a zero impact in the fiscal note for these agencies.

Rule Promulgation

Officials from the **Joint Committee on Administrative Rules** assume this proposal is not anticipated to cause a fiscal impact beyond its current appropriation.

Officials from the **Office of the Secretary of State** notes many bills considered by the General Assembly include provisions allowing or requiring agencies to submit rules and regulations to implement the act. The Secretary of State's office is provided with core funding to handle a certain amount of normal activity resulting from each year's legislative session. The fiscal impact for this fiscal note to Secretary of State's office for Administrative Rules is less than \$5,000. The Secretary of State's office recognizes that this is a small amount and does not expect that additional funding would be required to meet these costs. However, they also recognize that many such bills may be passed by the General Assembly in a given year and that collectively the costs may be in excess of what their office can sustain within their core budget. Therefore, they reserve the right to request funding for the cost of supporting administrative rules requirements should the need arise based on a review of the finally approved bills signed by the governor.

Oversight only reflects the responses that we have received from state agencies and political subdivisions; however, other cities, sewer and water districts were requested to respond to this proposed legislation but did not. A general listing of political subdivisions included in our database is available upon request.

<u>FISCAL IMPACT – State Government</u>	FY 2022 (10 Mo.)	FY 2023	FY 2024
GENERAL REVENUE FUND			
<u>Cost - Office of Administration</u> Potential increase utility costs (§§393.358, 393.1500 - 393.1509) p.7-8	\$0 to (Unknown)	\$0 to (Unknown)	\$0 to (Unknown)
ESTIMATED NET EFFECT TO THE GENERAL REVENUE FUND	\$0 to (Unknown)	\$0 to (Unknown)	\$0 to (Unknown)
<u>FISCAL IMPACT – State Government (continued)</u>	FY 2022 (10 Mo.)	FY 2023	FY 2024
BLIND PENSION FUND			
<u>Revenue (Gain or Loss) - property owned by public utilities utilizing Chapter 100 financing is locally assessed (\$153.030) p.3-5</u>	\$0	\$0	(Unknown) to Unknown
ESTIMATED NET EFFECT ON THE BLIND PENSION FUND	\$0	\$0	(Unknown) to Unknown
PUBLIC SERVICE COMMISSION FUND (0607)			
<u>Revenue – Potential additional funding by increasing the assessment rate ceiling from .25% to .315% (\$386.370) p.6</u>	\$0 or Unknown	\$0 or Unknown	\$0 or Unknown
<u>Cost - DCI – PSC</u> (§§353.358, 393.1500 – 393.1509) p.7-8			
Salaries	\$0 to (\$109,731)	\$0 to (\$132,993)	\$0 to (\$134,324)
Fringe Benefits	\$0 to (\$85,367)	\$0 to (\$103,003)	\$0 to (\$103,572)

Equipment and Expense	\$0 to (\$24,522)	\$0 to (\$22,017)	\$0 to (\$22,567)
Total Cost - DCI-PSC	\$0 to (\$219,620)	\$0 to (\$258,013)	\$0 to (\$260,463)
Total FTE Change - DCI-PSC	0 to 2.45 FTE	0 to 2.45 FTE	0 to 2.45 FTE
ESTIMATED NET EFFECT TO THE PUBLIC SERVICE COMMISSION FUND (0607)	<u>Unknown to (\$219,620)</u>	<u>Unknown to (\$258,013)</u>	<u>Unknown to (\$260,463)</u>
Estimated Net FTE Change to the Public Service Commission Fund (0607)	0 to 2.45 FTE	0 to 2.45 FTE	0 to 2.45 FTE
<u>FISCAL IMPACT – State Government (continued)</u>	FY 2022 (10 Mo.)	FY 2023	FY 2024
OTHER STATE FUNDS			
<u>Cost - Various State Potential increase utility costs (§§393.358, 393.1500 - 393.1509) p.7-8</u>	\$0 to (Unknown)	\$0 to (Unknown)	\$0 to (Unknown)
ESTIMATED NET EFFECT TO OTHER STATE FUNDS	<u>\$0 to (Unknown)</u>	<u>\$0 to (Unknown)</u>	<u>\$0 to (Unknown)</u>

<u>FISCAL IMPACT – Local Government</u>	FY 2022 (10 Mo.)	FY 2023	FY 2024
LOCAL POLITICAL SUBDIVISIONS			
<u>Cost</u> - Local Governments Potential increase utility costs (§§393.358, 393.1500 - 393.1509) p.7-8	\$0 to (Unknown)	\$0 to (Unknown)	\$0 to (Unknown)
<u>Cost or Savings</u> - Public Utilities - from a change in the assessed valuation of property and subsequent property taxes due (§153.030) p.3-5	\$0	\$0	(Unknown) to Unknown
<u>Loss</u> – loss of exclusive right to service new structures (§§386.800 & 394.020) p. 6	\$0 to (Unknown)	\$0 to (Unknown)	\$0 to (Unknown)
<u>Revenue Gain</u> - for taxing entities with tax situs for public utilities using Chapter 100 financing (§153.030) p.3-5	\$0	\$0	Unknown
<u>Revenue (Loss)</u> - for taxing entities with property owned by public utilities using Chapter 100 financing that is no longer distributable (§153.030) p.3-5	\$0	\$0	(Unknown)
ESTIMATED NET EFFECT TO LOCAL POLITICAL SUBDIVISIONS	<u>\$0 to (Unknown)</u>	<u>\$0 to (Unknown)</u>	<u>Unknown to (Unknown)</u>

FISCAL IMPACT – Small Business

This legislation could result in increases to a small business' utility rates quicker than under current ratemaking practices in Missouri.

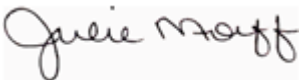
FISCAL DESCRIPTION

This proposal modifies provisions relating to utilities.

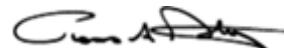
This legislation is not federally mandated, would not duplicate any other program and would not require additional capital improvements or rental space.

SOURCES OF INFORMATION

Attorney General's Office
Department of Commerce and Insurance
Department of Natural Resources
Office of Administration
Department of Revenue
Department of Transportation
Office of the State Auditor
Joint Committee on Administrative Rules
State Tax Commission
Hancock Street Light District
South River Drainage District
Wayne County Pwsd
Metropolitan St. Louis Sewer District
Corder Water Waste District
High Point Elementary School
Lexington Water/Water Waste District
Little Blue Valley Sewer District
Platte County Pwsd
Saline County Pwsd
City of Springfield
Tri County Water Authority
Office of the State Auditor
Bollinger County Assessor's Office
Boone County Assessor's Office
Ste. Genevieve County Assessor's Office



Julie Morff
Director
June 8, 2021



Ross Strobe
Assistant Director
June 8, 2021