

FIRST REGULAR SESSION
[PERFECTED]
HOUSE COMMITTEE SUBSTITUTE FOR
HOUSE BILL NO. 1152
102ND GENERAL ASSEMBLY

2477H.03P

DANA RADEMAN MILLER, Chief Clerk

AN ACT

To repeal sections 204.300, 204.610, 393.320, and 393.1506, RSMo, and to enact in lieu thereof four new sections relating to water systems.

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

Section A. Sections 204.300, 204.610, 393.320, and 393.1506, RSMo, are repealed
2 and four new sections enacted in lieu thereof, to be known as sections 204.300, 204.610,
3 393.320, and 393.1506, to read as follows:

204.300. 1. In all counties except counties of the first classification which have a
2 charter form of government and which contain all or any portion of a city with a population of
3 three hundred fifty thousand or more inhabitants, the governing body of the county, by
4 resolution, order, or ordinance, shall appoint five trustees, the majority of whom shall reside
5 within the boundaries of the district. In the event the district extends into any county
6 bordering the county in which the greater portion of the district lies, the presiding
7 commissioner or other chief executive officer of the adjoining county shall be an additional
8 member of the appointed board of trustees. **Subject to the provisions of section 105.454**, the
9 trustees may be paid reasonable compensation by the district for their services~~]; except that,~~
10 ~~any compensation schedule shall be approved by resolution of the board of trustees]~~ **outside**
11 **their duties as trustees. Each trustee of the board may receive an attendance fee not to**
12 **exceed one hundred dollars for attending each regularly called board meeting, or special**
13 **meeting, but shall not be paid for attending more than two meetings in any calendar**
14 **month, except that in a county of the first classification, a trustee shall not be paid for**
15 **attending more than four meetings in any calendar month. However, no trustee shall be**
16 **paid more than one attendance fee if such trustee attends more than one board meeting**

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

17 **in a calendar week. Each trustee of the board shall be reimbursed for his or her actual**
18 **expenditures in the performance of his or her duties on behalf of the district.** The board
19 of trustees shall be responsible for the control and operation of the sewer district. The term of
20 each board member shall be five years; except that, members of the governing body of the
21 county sitting upon the board shall not serve beyond the expiration of their term as members
22 of such governing body of the county. The first board of trustees shall be appointed for terms
23 ranging from one to five years so as to establish one vacancy per year thereafter. If the
24 governing body of the county with the right of appointment under this section fails to appoint
25 a trustee to fill a vacancy on the board within sixty days after receiving written notice from
26 the common sewer district of the existence of such vacancy, then the vacancy may be filled by
27 a majority of the remaining members then in office of the board of trustees of such common
28 sewer district. **Subject to the provisions of section 105.454,** the trustees may be paid
29 reasonable compensation by the district for their services[; ~~except that, any compensation~~
30 ~~schedule shall be approved by resolution, order, or ordinance of the governing body of the~~
31 ~~county. Any and all expenses incurred in the performance of their duties shall be reimbursed~~
32 ~~by the district]~~ **outside their duties as trustees. Each trustee of the board may receive an**
33 **attendance fee not to exceed one hundred dollars for attending each regularly called**
34 **board meeting, or special meeting, but shall not be paid for attending more than two**
35 **meetings in any calendar month, except that in a county of the first classification, a**
36 **trustee shall not be paid for attending more than four meetings in any calendar month.**
37 **However, no trustee shall be paid more than one attendance fee if such trustee attends**
38 **more than one board meeting in a calendar week. Each trustee of the board shall be**
39 **reimbursed for his or her actual expenditures in the performance of his or her duties on**
40 **behalf of the district.** The board of trustees shall have the power to employ and fix the
41 compensation of such staff as may be necessary to discharge the business and purposes of the
42 district, including clerks, attorneys, administrative assistants, and any other necessary
43 personnel. The board of trustees shall select a treasurer, who may be either a member of the
44 board of trustees or another qualified individual. The treasurer selected by the board shall
45 give such bond as may be required by the board of trustees. The board of trustees shall
46 appoint the sewer engineer for the county in which the greater part of the district lies as chief
47 engineer for the district, and the sewer engineer shall have the same powers, responsibilities
48 and duties in regard to planning, construction and maintenance of the sewers, and treatment
49 facilities of the district as he now has by virtue of law in regard to the sewer facilities within
50 the county for which he is elected. If there is no sewer engineer in the county in which the
51 greater part of the district lies, the board of trustees may employ a registered professional
52 engineer as chief engineer for the district under such terms and conditions as may be
53 necessary to discharge the business and purposes of the district. The provisions of this

54 subsection shall not apply to any county of the first classification which has a charter form of
55 government and which contains all or any portion of a city with a population of three hundred
56 fifty thousand or more inhabitants.

57 2. In any county of the first classification which has a charter form of government and
58 which contains all or any portion of a city with a population of three hundred fifty thousand or
59 more inhabitants, [~~and in any county of the first classification without a charter form of~~
60 ~~government and which has a population of more than sixty three thousand seven hundred but~~
61 ~~less than seventy five thousand,~~] there shall be a ten-member board of trustees to consist of
62 the county executive, the mayors of the five cities constituting the largest users by flow
63 during the previous fiscal year, the mayors of three cities which are not among the five largest
64 users and who are members of the advisory board of the district established pursuant to
65 section 204.310, and one member of the county legislature to be appointed by the county
66 executive, with the concurrence of the county legislature. If the county executive does not
67 appoint such members of the county legislature to the board of trustees within sixty days, the
68 county legislature shall make the appointments. The advisory board members shall be
69 appointed annually by the advisory board. In the event the district extends into any county
70 bordering the county in which the greater portion of the district lies, the number of members
71 on the board of trustees shall be increased to a total of eleven and the presiding commissioner
72 or county executive of the adjoining county shall be an additional member of the board of
73 trustees. **The trustees of a district with an eleven-member board and located in two**
74 **counties** shall receive no compensation for their services[;] but may be compensated for their
75 reasonable expenses normally incurred in the performance of their duties. **Each trustee of a**
76 **ten-member board may receive an attendance fee not to exceed one hundred dollars for**
77 **attending each regularly called board meeting, or special meeting, but shall not be paid**
78 **for attending more than two meetings in any calendar month. However, no trustee of a**
79 **ten-member board shall be paid more than one attendance fee if such trustee attends**
80 **more than one board meeting in a calendar week. Each trustee of a ten-member board**
81 **shall be reimbursed for his or her actual expenditures in the performance of his or her**
82 **duties on behalf of the district. Subject to the provisions of section 105.454, the trustees**
83 **of a ten-member board may be paid reasonable compensation by the district for their**
84 **services outside their duties as trustees.** The board of trustees may employ and fix the
85 compensation of such staff as may be necessary to discharge the business and purposes of the
86 district, including clerks, attorneys, administrative assistants, and any other necessary
87 personnel. The board of trustees may employ and fix the duties and compensation of an
88 administrator for the district. The administrator shall be the chief executive officer of the
89 district subject to the supervision and direction of the board of trustees and shall exercise the
90 powers, responsibilities and duties heretofore exercised by the chief engineer prior to

91 September 28, 1983. The administrator of the district may, with the approval of the board of
92 trustees, retain consulting engineers for the district under such terms and conditions as may be
93 necessary to discharge the business and purposes of the district. The provisions of this
94 subsection shall only apply to counties of the first classification which have a charter form of
95 government and which contain all or any portion of a city with a population of three hundred
96 fifty thousand or more inhabitants.

204.610. 1. There shall be five trustees, appointed or elected as provided for in the
2 circuit court decree or amended decree of incorporation for a reorganized common sewer
3 district, who shall reside within the boundaries of the district. Each trustee shall be a voter of
4 the district and shall have resided in said district for twelve months immediately prior to the
5 trustee's election or appointment. A trustee shall be at least twenty-five years of age and shall
6 not be delinquent in the payment of taxes at the time of the trustee's election or appointment.
7 Regardless of whether or not the trustees are elected or appointed, in the event the district
8 extends into any county bordering the county in which the greater portion of the district lies,
9 the presiding commissioner or other chief executive officer of the adjoining county shall be
10 an additional member of the board of trustees, or the governing body of such bordering
11 county may appoint a citizen from such county to serve as an additional member of the board
12 of trustees. Said additional trustee shall meet the qualifications set forth in this section for a
13 trustee.

14 2. ~~[The trustees shall receive no compensation for their services but may be~~
15 ~~compensated for reasonable expenses normally incurred in the performance of their duties.]~~
16 **Each trustee of the board may receive an attendance fee not to exceed one hundred**
17 **dollars for attending each regularly called board meeting, or special meeting, but shall**
18 **not be paid for attending more than two meetings in any calendar month. However, no**
19 **trustee shall be paid more than one attendance fee if such trustee attends more than one**
20 **board meeting in a calendar week. Each trustee of the board shall be reimbursed for his**
21 **or her actual expenditures in the performance of his or her duties on behalf of the**
22 **district. Subject to the provisions of section 105.454, the trustees may be paid**
23 **reasonable compensation by the district for their services outside their duties as**
24 **trustees.** The board of trustees may employ and fix the compensation of such staff as may be
25 necessary to discharge the business and purposes of the district, including clerks, attorneys,
26 administrative assistants, and any other necessary personnel. The board of trustees may
27 employ and fix the duties and compensation of an administrator for the district. The
28 administrator shall be the chief executive officer of the district subject to the supervision and
29 direction of the board of trustees. The administrator of the district may, with the approval of
30 the board of trustees, retain consulting engineers for the district under such terms and
31 conditions as may be necessary to discharge the business and purposes of the district.

32 3. Except as provided in subsection 1 of this section, the term of office of a trustee
33 shall be five years. The remaining trustees shall appoint a person qualified under this section
34 to fill any vacancy on the board. The initial trustees appointed by the circuit court shall serve
35 until the first Tuesday after the first Monday in June or until the first Tuesday after the first
36 Monday in April, depending upon the resolution of the trustees. In the event that the trustees
37 are elected, said elections shall be conducted by the appropriate election authority under
38 chapter 115. Otherwise, trustees shall be appointed by the county commission in accordance
39 with the qualifications set forth in subsection 1 of this section.

40 4. Notwithstanding any other provision of law, if there is only one candidate for the
41 post of trustee, then no election shall be held, and the candidate shall assume the
42 responsibilities of office at the same time and in the same manner as if elected. If there is no
43 candidate for the post of trustee, then no election shall be held for that post and it shall be
44 considered vacant, to be filled under the provisions of subsection 3 of this section.

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

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

3 (a) That regularly provides water service [~~or sewer service~~] to more than eight
4 thousand customer connections, **regularly provides sewer service to more than eight**
5 **thousand customer connections, or regularly provides a combination of either to more**
6 **than eight thousand customer connections;** and

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

12 (2) "Small water utility", a public utility that regularly provides water service or
13 sewer service to eight thousand or fewer customer connections; a water district established
14 under the provisions of chapter 247 that regularly provides water or sewer service to eight
15 thousand or fewer customer connections; a sewer district established under the provisions of
16 chapter 204, 249, or 250 that regularly provides sewer service to eight thousand or fewer
17 customer connections; or a water system or sewer system owned by a municipality that
18 regularly provides water service or sewer service to eight thousand or fewer customer
19 connections; and all other entities that regularly provide water service or sewer service to
20 eight thousand or fewer customer connections.

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

24 3. (1) An appraisal shall be performed by three appraisers. One appraiser shall be
25 appointed by the small water utility, one appraiser shall be appointed by the large water public
26 utility, and the third appraiser shall be appointed by the two appraisers so appointed. Each of
27 the appraisers shall be a disinterested person who is a certified general appraiser under
28 chapter 339.

29 (2) The appraisers shall:

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

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

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

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

39 5. (1) The lesser of the purchase price or the appraised value, together with the
40 reasonable and prudent transaction, closing, and transition costs incurred by the large water
41 public utility, shall constitute the ratemaking rate base for the small water utility as acquired
42 by the acquiring large water public utility; provided, however, that if the small water utility is
43 a public utility subject to chapter 386 and the small water utility completed a rate case prior to
44 the acquisition, the public service commission may select as the ratemaking rate base for the
45 small water utility as acquired by the acquiring large water public utility a ratemaking rate
46 base in between:

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

51 (b) The ratemaking rate base of the small water utility as ordered by the public service
52 commission in the small water utility's last previous rate case as adjusted by improvements
53 and depreciation reserve since the previous rate case together with the transaction, closing,
54 and transition costs incurred by the large water public utility unless such transaction, closing,
55 and transition costs are elsewhere recoverable in rates. If the small water utility and large
56 water public utility proceed with the sale, any past-due fees due to the state from the small
57 water utility or its customers under chapter 640 or 644 shall be resolved prior to the transfer
58 of ownership or the liability for such past-due fees becomes the responsibility of the large
59 water public utility. Such fees shall not be included in the large water public utility's rate
60 base.

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

65 6. Upon the date of the acquisition of a small water utility by a large water public
66 utility, whether or not the procedures for establishing ratemaking rate base provided by this
67 section have been utilized, the small water utility shall, for ratemaking purposes, become part
68 of an existing service area, as defined by the public service commission, of the acquiring large
69 water public utility that is either contiguous to the small water utility, the closest
70 geographically to the small water utility, or best suited due to operational or other factors.
71 This consolidation shall be approved by the public service commission in its order approving
72 the acquisition.

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

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

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

15 future changes thereto shall be calculated and implemented in accordance with the provisions
16 of sections 393.1503 to 393.1509. WSIRA revenues shall be subject to refund based upon a
17 finding and order of the commission, to the extent provided in subsections 5 and 8 of section
18 393.1509.

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

23 3. In no event shall a water or sewer corporation collect a WSIRA for a period
24 exceeding three years unless the water or sewer corporation has filed for or is the subject of a
25 pending general rate proceeding; provided that the WSIRA may be collected until the
26 effective date of new rate schedules established as a result of the new general rate proceeding
27 or until the subject general rate proceeding is otherwise decided or dismissed by issuance of a
28 commission order without new rates being established.

29 4. Except as provided in this subsection, in no event shall a water or sewer
30 corporation collect a WSIRA if also collecting revenues from a commission approved
31 infrastructure system replacement surcharge as provided in sections 393.1000 to 393.1006. In
32 no event shall a customer be charged both an infrastructure system replacement surcharge as
33 provided in sections 393.1000 to 393.1006 and a WSIRA. In the event a water or sewer
34 corporation is collecting infrastructure system replacement surcharge revenues under sections
35 393.1000 to 393.1006, that was approved prior to August 28, 2021, when the initial WSIRA
36 is filed, the approved infrastructure system replacement surcharge revenues shall be included
37 in the new WSIRA filing.

✓