

FIRST REGULAR SESSION

# SENATE BILL NO. 383

100TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR EMERY.

Read 1st time February 13, 2019, and ordered printed.

ADRIANE D. CROUSE, Secretary.

1722S.03I

## AN ACT

To repeal section 88.770, RSMo, and to enact in lieu thereof one new section relating to the sale of utilities in fourth class cities.

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

Section A. Section 88.770, RSMo, is repealed and one new section enacted  
2 in lieu thereof, to be known as section 88.770, to read as follows:

88.770. 1. The board of aldermen may provide for and regulate the  
2 lighting of streets and the erection of lamp posts, poles and lights therefor, and  
3 may make contracts with any person, association or corporation, either private  
4 or municipal, for the lighting of the streets and other public places of the city  
5 with gas, electricity or otherwise, except that each initial contract shall be  
6 ratified by a majority of the voters of the city voting on the question and any  
7 renewal contract or extension shall be subject to voter approval of the majority  
8 of the voters voting on the question, pursuant to the provisions of section  
9 88.251. The board of aldermen may erect, maintain and operate gas works,  
10 electric light works, or light works of any other kind or name, and to erect lamp  
11 posts, electric light poles, or any other apparatus or appliances necessary to light  
12 the streets, avenues, alleys or other public places, and to supply private lights for  
13 the use of the inhabitants of the city and its suburbs, and may regulate the same,  
14 and may prescribe and regulate the rates to be paid by the consumers thereof,  
15 and may acquire by purchase, donation or condemnation suitable grounds within  
16 or without the city upon which to erect such works and the right-of-way to and  
17 from such works, and also the right-of-way for laying gas pipes, electric wires  
18 under or above the grounds, and erecting posts and poles and such other  
19 apparatus and appliances as may be necessary for the efficient operation of such  
20 works. The board of aldermen may, in its discretion, grant the right to any

21 person, persons or corporation, to erect such works and lay the pipe, wires, and  
22 erect the posts, poles and other necessary apparatus and appliances therefor,  
23 upon such terms as may be prescribed by ordinance. Such rights shall not extend  
24 for a longer time than twenty years, but may be renewed for another period or  
25 periods not to exceed twenty years per period. Every initial grant shall be  
26 approved by a majority of the voters of the municipality voting on the question,  
27 and each renewal or extension of such rights shall be subject to voter approval of  
28 the majority of the voters voting on the question, pursuant to the provisions of  
29 section 88.251. Nothing herein contained shall be so construed as to prevent the  
30 board of aldermen from contracting with any person, persons or corporation for  
31 furnishing the city with gas or electric lights in cities where franchises have  
32 already been granted, and where gas or electric light plants already exist, without  
33 a vote of the people, except that the board of aldermen may sell, convey,  
34 encumber, lease, abolish or otherwise dispose of any public utilities owned by the  
35 city including electric light systems, electric distribution systems or transmission  
36 lines, or any part of the electric light systems, electric or other heat systems,  
37 electric or other power systems, electric or other railways, gas plants, telephone  
38 systems, telegraph systems, transportation systems of any kind, waterworks,  
39 equipments and all public utilities not herein enumerated and everything  
40 acquired therefor, after first having passed an ordinance setting forth the terms  
41 of the sale, conveyance or encumbrance and when ratified by two-thirds of the  
42 voters voting on the question, except for the sale of a water or wastewater system,  
43 or the sale of a gas plant, which shall be authorized by a simple majority vote of  
44 the voters voting on the question. In the event of the proposed sale of a water or  
45 wastewater system, or a gas plant, the board of alderman shall hold a public  
46 meeting on such proposed sale at least thirty days prior to the vote. The  
47 municipality in question shall notify its customers of the informational meeting  
48 through radio, television, newspaper, regular mail, electronic mail, or any  
49 combination of notification methods to most effectively notify customers at least  
50 fifteen days prior to the informational meeting. **In advance of putting a**  
51 **proposed water or wastewater system sale, or the sale of a gas plant,**  
52 **before the voters, the board of aldermen may seek an appraisal as set**  
53 **forth in subsection 2 of this section. The board may also seek and**  
54 **provide additional reasonable analyses to inform voters of such sale,**  
55 **including but not limited to, the impact of such sale on all city funds**  
56 **and revenues, other city services, and annexation. Nothing in this**

57 section shall be so construed as to discourage the board of aldermen  
58 from seeking multiple bids when considering the disposal of a utility  
59 by sale.

60       2. Upon a decision of the board of alderman to seek an appraisal  
61 in subsection 1 of this section, it may utilize the appraisal process as  
62 set forth in subdivisions (1) and (2) of this subsection, or the board may  
63 utilize the process as set forth in subsections 3 and 4 of section  
64 393.320. Subdivisions (3) through (8) of this subsection shall apply no  
65 matter which appraisal process is chosen.

66       (1) The board of aldermen shall determine the fair market value  
67 of the utility system after obtaining two appraisals of the system's fair  
68 market value. One appraisal shall be obtained from an independent  
69 appraiser selected by the board of aldermen, and the other appraisal  
70 shall be obtained from an independent appraiser approved by the  
71 potential buyer. The board of aldermen may pay for its appraisal, or  
72 may negotiate with the buyer to pay for the board's appraisal, but the  
73 buyer shall have no authority to influence or control the selection and  
74 direction of the board selected appraiser. The potential buyer shall pay  
75 for its appraisal. Both appraisals shall be conducted in conformance  
76 with the Uniform Standards of Professional Appraisal Practice or  
77 substantially similar standards. Any appraisal obtained pursuant to  
78 this subdivision shall consider the depreciated value of the capital  
79 assets to be sold, the loss of future revenues to the utility, including the  
80 right to generate surpluses, and the cost of any capital improvements  
81 reasonably necessary to provide adequate service and facilities to the  
82 utility's customers.

83       (2) After considering the appraisals obtained pursuant to  
84 subdivision (1) of this subsection, the board of aldermen shall establish  
85 the utility's fair market value. The fair market value shall be the  
86 greater of any of the following:

87       (a) The average of the two appraisals obtained pursuant to  
88 subdivision (1) of this subsection;

89       (b) The depreciated value of the capital assets to be sold;

90       (c) The amount necessary to retire all of the city's outstanding  
91 revenue and general obligations issued for purposes of the utility.

92       (3) The board of aldermen's determination of a utility's fair  
93 market value pursuant to this subsection shall not be dispositive of the

94 utility's system price, which shall be subject to negotiation by the board  
95 of aldermen.

96 (4) The board of aldermen shall prepare an inventory of the  
97 utility's real and personal property, and a statement of net position or  
98 balance sheet of the utility, including all assets, liabilities, outstanding  
99 revenue, and general obligations used to finance the utility system.

100 (5) The board of aldermen shall prepare a financial information  
101 statement of the utility that includes current and projected rate  
102 schedules for the next five fiscal years, as well as the five most recent  
103 fiscal year revenue statements, if such statements exist, and a  
104 projection of the utility's revenue statements for the next five fiscal  
105 years.

106 (6) The board of aldermen may consider alternatives to disposing  
107 of the utility system by sale, including entering into a finance  
108 agreement, purchase agreement, management agreement, or lease  
109 agreement with another entity.

110 (7) (a) The board of aldermen shall make available on its  
111 internet site, if such internet site exists, at least sixty days prior to  
112 submitting a proposal for election pursuant to this section, a copy of  
113 each item listed in subdivisions (1) to (6) of this subsection. Such  
114 information shall also be posted in the building where the board of  
115 aldermen has its monthly meetings.

116 (b) If, at the time of posting information pursuant to paragraph  
117 (a) of this subdivision, the board of aldermen has received any offers  
118 or appraisals of fair market value from any prospective purchasers of  
119 the utility system in connection with a proposal to discontinue the  
120 utility and dispose of such utility by sale, then the board of aldermen  
121 shall make available on its internet site, if such internet site exists,  
122 each offer and appraisal then in existence.

123 (c) The board of aldermen shall make a good-faith effort to  
124 provide, by regular mail to each property owner of the city and each  
125 ratepayer of the utility, a notice of the proposal to dispose of the utility  
126 by sale, a summary of the proposal, a summary of the information  
127 described in subdivisions (1) and (2) of this subsection, and instructions  
128 for locating the information described in subdivisions (1) and (2) of this  
129 subsection on the board of aldermen's internet site, if such internet site  
130 exists.

131           **(8) The provisions of this subsection shall only apply to water**  
132 **systems, wastewater systems, and natural gas plants.**

133           **3.** The ballots shall be substantially in the following form and shall  
134 indicate the property, or portion thereof, and whether the same is to be sold,  
135 leased or encumbered:

136                   Shall \_\_\_\_\_ (Indicate the property by stating whether  
137 electric distribution system, electric transmission lines or  
138 waterworks, etc.) be \_\_\_\_\_ (Indicate whether sold, leased or  
139 encumbered.)?

Unofficial ✓

Bill

Copy