

FIRST REGULAR SESSION

[PERFECTED]

SENATE SUBSTITUTE FOR

# SENATE BILL NO. 44

101ST GENERAL ASSEMBLY

INTRODUCED BY SENATOR WHITE.

0809S.04P

ADRIANE D. CROUSE, Secretary

## AN ACT

To repeal sections 137.010, 137.122, 153.030, 153.034, 204.569, 393.358, and 394.120, RSMo, and to enact in lieu thereof twelve new sections relating to utilities.

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

Section A. Sections 137.010, 137.122, 153.030, 153.034,  
2 204.569, 393.358, and 394.120, RSMo, are repealed and twelve  
3 new sections enacted in lieu thereof, to be known as sections  
4 67.309, 137.010, 137.122, 153.030, 153.034, 204.569, 393.358,  
5 393.1500, 393.1503, 393.1506, 393.1509, and 394.120, to read as  
6 follows:

**67.309. No political subdivision of this state shall  
2 adopt an ordinance, resolution, regulation, code, or policy  
3 that prohibits, or has the effect of prohibiting, the  
4 connection or reconnection of a utility service based upon  
5 the type or source of energy to be delivered to an  
6 individual customer. Nothing in this section shall limit  
7 the ability of a political subdivision to choose utility  
8 services for properties owned by such political subdivision.**

137.010. The following words, terms and phrases when  
2 used in laws governing taxation and revenue in the state of  
3 Missouri shall have the meanings ascribed to them in this

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

4 section, except when the context clearly indicates a  
5 different meaning:

6 (1) "Grain and other agricultural crops in an  
7 unmanufactured condition" shall mean grains and feeds  
8 including, but not limited to, soybeans, cow peas, wheat,  
9 corn, oats, barley, kafir, rye, flax, grain sorghums,  
10 cotton, and such other products as are usually stored in  
11 grain and other elevators and on farms; but excluding such  
12 grains and other agricultural crops after being processed  
13 into products of such processing, when packaged or sacked.  
14 The term "processing" shall not include hulling, cleaning,  
15 drying, grating, or polishing;

16 (2) "Hydroelectric power generating equipment", very-  
17 low-head turbine generators with a nameplate generating  
18 capacity of at least four hundred kilowatts but not more  
19 than six hundred kilowatts and machinery and equipment used  
20 directly in the production, generation, conversion, storage,  
21 or conveyance of hydroelectric power to land-based devices  
22 and appurtenances used in the transmission of electrical  
23 energy;

24 (3) "Intangible personal property", for the purpose of  
25 taxation, shall include all property other than real  
26 property and tangible personal property, as defined by this  
27 section;

28 (4) "Real property" includes land itself, whether laid  
29 out in town lots or otherwise, and all growing crops,  
30 buildings, structures, improvements and fixtures of whatever  
31 kind thereon, hydroelectric power generating equipment, the  
32 installed poles used in the transmission or reception of  
33 electrical energy, audio signals, video signals or similar  
34 purposes, provided the owner of such installed poles is also  
35 an owner of a fee simple interest, possessor of an easement,

36 holder of a license or franchise, or is the beneficiary of a  
37 right-of-way dedicated for public utility purposes for the  
38 underlying land; **and** attached wires, transformers,  
39 amplifiers, substations, and other such devices and  
40 appurtenances used in the transmission or reception of  
41 electrical energy, audio signals, video signals or similar  
42 purposes when owned by the owner of the installed poles,  
43 otherwise such items are considered personal property; and  
44 stationary property used for transportation or storage of  
45 [liquid and gaseous products, including, but not limited to,  
46 petroleum products, natural gas,] propane or LP gas  
47 equipment[, water, and sewage];

48 (5) "Reliever airport", any land and improvements,  
49 exclusive of structures, on privately owned airports that  
50 qualify as reliever airports under the National Plan of  
51 Integrated Airport Systems that may receive federal airport  
52 improvement project funds through the Federal Aviation  
53 Administration;

54 (6) "Tangible personal property" includes every  
55 tangible thing being the subject of ownership or part  
56 ownership whether animate or inanimate, other than money,  
57 and not forming part or parcel of real property as herein  
58 defined, but does not include household goods, furniture,  
59 wearing apparel and articles of personal use and adornment,  
60 as defined by the state tax commission, owned and used by a  
61 person in his home or dwelling place. **Stationary property**  
62 **used for transportation or storage of liquid and gaseous**  
63 **products, including, but not limited to, petroleum products,**  
64 **natural gas that is not propane or LP gas, water, and sewage**  
65 **shall be considered tangible personal property.**

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

3           (1) "Business personal property", tangible personal  
4 property which is used in a trade or business or used for  
5 production of income and which has a determinable life of  
6 longer than one year except that supplies used by a business  
7 shall also be considered business personal property, but  
8 shall not include livestock, farm machinery, grain and other  
9 agricultural crops in an unmanufactured condition, property  
10 subject to the motor vehicle registration provisions of  
11 chapter 301, property assessed under section 137.078, the  
12 property of rural electric cooperatives under chapter 394,  
13 or property assessed by the state tax commission under  
14 chapters 151, 153, and 155, section 137.022, and sections  
15 137.1000 to 137.1030;

16           (2) "Class life", the class life of property as set  
17 out in the federal Modified Accelerated Cost Recovery System  
18 life tables or their successors under the Internal Revenue  
19 Code as amended;

20           (3) "Economic or functional obsolescence", a loss in  
21 value of personal property above and beyond physical  
22 deterioration and age of the property. Such loss may be the  
23 result of economic or functional obsolescence or both;

24           (4) "Original cost", the price the current owner, the  
25 taxpayer, paid for the item without freight, installation,  
26 or sales or use tax. In the case of acquisition of items of  
27 personal property as part of an acquisition of an entity,  
28 the original cost shall be the historical cost of those  
29 assets remaining in place and in use and the placed-in-  
30 service date shall be the date of acquisition by the entity  
31 being acquired;

32           (5) "Placed in service", property is placed in service  
33 when it is ready and available for a specific use, whether  
34 in a business activity, an income-producing activity, a tax-

35 exempt activity, or a personal activity. Even if the  
36 property is not being used, the property is in service when  
37 it is ready and available for its specific use;

38 (6) "Recovery period", the period over which the  
39 original cost of depreciable tangible personal property  
40 shall be depreciated for property tax purposes and shall be  
41 the same as the recovery period allowed for such property  
42 under the Internal Revenue Code.

43 2. To establish uniformity in the assessment of  
44 depreciable tangible personal property, each assessor shall  
45 use the standardized schedule of depreciation in this  
46 section to determine the assessed valuation of depreciable  
47 tangible personal property for the purpose of estimating the  
48 value of such property subject to taxation under this  
49 chapter.

50 3. For purposes of this section, and to estimate the  
51 value of depreciable tangible personal property for mass  
52 appraisal purposes, each assessor shall value depreciable  
53 tangible personal property by applying the class life and  
54 recovery period to the original cost of the property  
55 according to the following depreciation schedule. The  
56 percentage shown for the first year shall be the percentage  
57 of the original cost used for January first of the year  
58 following the year of acquisition of the property, and the  
59 percentage shown for each succeeding year shall be the  
60 percentage of the original cost used for January first of  
61 the respective succeeding year as follows:

62	Year	Recovery Period in Years					
63	3	5	7	10	15	20	
64	1	75.00	85.00	89.29	92.50	95.00	96.25

65	2	37.50	59.50	70.16	78.62	85.50	89.03
66	3	12.50	41.65	55.13	66.83	76.95	82.35
67	4	5.00	24.99	42.88	56.81	69.25	76.18
68	5		10.00	30.63	48.07	62.32	70.46
69	6			18.38	39.33	56.09	65.18
70	7			10.00	30.59	50.19	60.29
71	8				21.85	44.29	55.77
72	9				15.00	38.38	51.31
73	10					32.48	46.85
74	11					26.57	42.38
75	12					20.67	37.92
76	13					15.00	33.46
77	14						29.00
78	15						24.54
79	16						20.08
80	17						20.00

81 Depreciable tangible personal property in all recovery  
82 periods shall continue in subsequent years to have the  
83 depreciation factor last listed in the appropriate column so  
84 long as it is owned or held by the taxpayer. The state tax  
85 commission shall study and analyze the values established by  
86 this method of assessment and in every odd-numbered year  
87 make recommendations to the joint committee on tax policy  
88 pertaining to any changes in this methodology, if any, that  
89 are warranted.

90 4. Such estimate of value determined under this  
91 section shall be presumed to be correct for the purpose of  
92 determining the true value in money of the depreciable

93 tangible personal property, but such estimation may be  
94 disproved **by a taxpayer** by substantial and persuasive  
95 evidence of the true value in money under any method  
96 determined by the state tax commission to be correct,  
97 including, but not limited to, an appraisal of the tangible  
98 personal property specifically utilizing generally accepted  
99 appraisal techniques, and contained in a narrative appraisal  
100 report in accordance with the Uniform Standards of  
101 Professional Appraisal Practice or by proof of economic or  
102 functional obsolescence or evidence of excessive physical  
103 deterioration. For purposes of appeal of the provisions of  
104 this section, the salvage or scrap value of depreciable  
105 tangible personal property may only be considered if the  
106 property is not in use as of the assessment date.

107 5. This section shall not apply to business personal  
108 property placed in service before January 2, 2006. Nothing  
109 in this section shall create a presumption as to the proper  
110 method of determining the assessed valuation of business  
111 personal property placed in service before January 2, 2006,  
112 **provided, however, that as of January 1, 2021, this section**  
113 **shall apply to all stationary property used for**  
114 **transportation or storage of liquid and gaseous products,**  
115 **including, but not limited to, petroleum products, natural**  
116 **gas that is not propane or LP gas, water, and sewage that**  
117 **was or will be placed in service at any time.**

118 6. The provisions of this section are not intended to  
119 modify the definition of tangible personal property as  
120 defined in section 137.010.

153.030. 1. All bridges over streams dividing this  
2 state from any other state owned, used, leased or otherwise  
3 controlled by any person, corporation, railroad company or  
4 joint stock company, and all bridges across or over

5 navigable streams within this state, where the charge is  
6 made for crossing the same, which are now constructed, which  
7 are in the course of construction, or which shall hereafter  
8 be constructed, and all property, real and tangible  
9 personal, owned, used, leased or otherwise controlled by  
10 telegraph, telephone, electric power and light companies,  
11 electric transmission lines, pipeline companies and express  
12 companies shall be subject to taxation for state, county,  
13 municipal and other local purposes to the same extent as the  
14 property of private persons.

15         2. And taxes levied thereon shall be levied and  
16 collected in the manner as is now or may hereafter be  
17 provided by law for the taxation of railroad property in  
18 this state, and county commissions, county boards of  
19 equalization and the state tax commission are hereby  
20 required to perform the same duties and are given the same  
21 powers, including punitive powers, in assessing, equalizing  
22 and adjusting the taxes on the property set forth in this  
23 section as the county commissions and boards of equalization  
24 and state tax commission have or may hereafter be empowered  
25 with, in assessing, equalizing, and adjusting the taxes on  
26 railroad property; and an authorized officer of any such  
27 bridge, telegraph, telephone, electric power and light  
28 companies, electric transmission lines, pipeline companies,  
29 or express company or the owner of any such toll bridge, is  
30 hereby required to render reports of the property of such  
31 bridge, telegraph, telephone, electric power and light  
32 companies, electric transmission lines, pipeline companies,  
33 or express companies in like manner as the authorized  
34 officer of the railroad company is now or may hereafter be  
35 required to render for the taxation of railroad property.



36           3. On or before the fifteenth day of April in the year  
37 1946 and each year thereafter an authorized officer of each  
38 such company shall furnish the state tax commission and  
39 county clerks a report, duly subscribed and sworn to by such  
40 authorized officer, which is like in nature and purpose to  
41 the reports required of railroads under chapter 151 showing  
42 the full amount of all real and tangible personal property  
43 owned, used, leased or otherwise controlled by each such  
44 company on January first of the year in which the report is  
45 due.

46           4. If any telephone company assessed pursuant to  
47 chapter 153 has a microwave relay station or stations in a  
48 county in which it has no wire mileage but has wire mileage  
49 in another county, then, for purposes of apportioning the  
50 assessed value of the distributable property of such  
51 companies, the straight line distance between such microwave  
52 relay stations shall constitute miles of wire. In the event  
53 that any public utility company assessed pursuant to this  
54 chapter has no distributable property which physically  
55 traverses the counties in which it operates, then the  
56 assessed value of the distributable property of such company  
57 shall be apportioned to the physical location of the  
58 distributable property.

59           5. (1) Notwithstanding any provision of law to the  
60 contrary, beginning January 1, 2019, a telephone company  
61 shall make a one-time election within the tax year to be  
62 assessed:

63           (a) Using the methodology for property tax purposes as  
64 provided under this section; or

65           (b) Using the methodology for property tax purposes as  
66 provided under this section for property consisting of land  
67 and buildings and be assessed for all other property

68 exclusively using the methodology utilized under section  
69 137.122.

70 If a telephone company begins operations, including a merger  
71 of multiple telephone companies, after August 28, 2018, it  
72 shall make its one-time election to be assessed using the  
73 methodology for property tax purposes as described under  
74 paragraph (b) of subdivision (1) of this subsection within  
75 the year in which the telephone company begins its  
76 operations. A telephone company that fails to make a timely  
77 election shall be deemed to have elected to be assessed  
78 using the methodology for property tax purposes as provided  
79 under subsections 1 to 4 of this section.

80 (2) The provisions of this subsection shall not be  
81 construed to change the original assessment jurisdiction of  
82 the state tax commission.

83 (3) Nothing in subdivision (1) of this subsection  
84 shall be construed as applying to any other utility.

85 (4) (a) The provisions of this subdivision shall  
86 ensure that school districts may avoid any fiscal impact as  
87 a result of a telephone company being assessed under the  
88 provisions of paragraph (b) of subdivision (1) of this  
89 subsection. If a school district's current operating levy  
90 is below the greater of its most recent voter-approved tax  
91 rate or the most recent voter-approved tax rate as adjusted  
92 under subdivision (2) of subsection 5 of section 137.073, it  
93 shall comply with section 137.073.

94 (b) Beginning January 1, 2019, any school district  
95 currently operating at a tax rate equal to the greater of  
96 the most recent voter-approved tax rate or the most recent  
97 voter-approved tax rate as adjusted under subdivision (2) of  
98 subsection 5 of section 137.073 that receives less tax

99 revenue from a specific telephone company under this  
100 subsection, on or before January thirty-first of the year  
101 following the tax year in which the school district received  
102 less revenue from a specific telephone company, may by  
103 resolution of the school board impose a fee, as determined  
104 under this subsection, in order to obtain such revenue. The  
105 resolution shall include all facts that support the  
106 imposition of the fee. If the school district receives  
107 voter approval to raise its tax rate, the district shall no  
108 longer impose the fee authorized in this paragraph.

109 (c) Any fee imposed under paragraph (b) of this  
110 subdivision shall be determined by taking the difference  
111 between the tax revenue the telephone company paid in the  
112 tax year in question and the tax revenue the telephone  
113 company would have paid in such year had it not made an  
114 election under subdivision (1) of this subsection, which  
115 shall be calculated by taking the telephone company  
116 valuations in the tax year in question, as determined by the  
117 state tax commission under paragraph (d) of this  
118 subdivision, and applying such valuations to the  
119 apportionment process in subsection 2 of section 151.150.  
120 The school district shall issue a billing, as provided in  
121 this subdivision, to any such telephone company. A  
122 telephone company shall have forty-five days after receipt  
123 of a billing to remit its payment of its portion of the fees  
124 to the school district. Notwithstanding any other provision  
125 of law, the issuance or receipt of such fee shall not be  
126 used:

127 a. In determining the amount of state aid that a  
128 school district receives under section 163.031;

129 b. In determining the amount that may be collected  
130 under a property tax levy by such district; or

131 c. For any other purpose.

132 For the purposes of accounting, a telephone company that  
133 issues a payment to a school district under this subsection  
134 shall treat such payment as a tax.

135 (d) When establishing the valuation of a telephone  
136 company assessed under paragraph (b) of subdivision (1) of  
137 this subsection, the state tax commission shall also  
138 determine the difference between the assessed value of a  
139 telephone company if:

140 a. Assessed under paragraph (b) of subdivision (1) of  
141 this subsection; and

142 b. Assessed exclusively under subsections 1 to 4 of  
143 this section.

144 The state tax commission shall then apportion such amount to  
145 each county and provide such information to any school  
146 district making a request for such information.

147 (e) This subsection shall expire when no school  
148 district is eligible for a fee.

149 6. (1) If any public utility company assessed  
150 pursuant to this chapter has ownership of any real or  
151 personal property associated with a project which uses wind  
152 energy directly to generate electricity, such wind energy  
153 project property shall be valued and taxed by any local  
154 authorities having jurisdiction under the provisions of  
155 chapter 137 and other relevant provisions of the law.

156 (2) Notwithstanding any provision of law to the  
157 contrary, beginning January 1, 2020, for any public utility  
158 company assessed pursuant to this chapter which has a wind  
159 energy project, such wind energy project shall be assessed

160 using the methodology for real and personal property as  
161 provided in this subsection:

162 (a) Any wind energy property of such company shall be  
163 assessed upon the county assessor's local tax rolls;

164 (b) Any property consisting of land and buildings  
165 related to the wind energy project shall be assessed under  
166 chapter 137; and

167 (c) All other business or personal property related to  
168 the wind energy project shall be assessed using the  
169 methodology provided under section 137.122.

170 **7. (1) If any public utility company assessed**  
171 **pursuant to this chapter has ownership of any real or**  
172 **personal property associated with a generation project which**  
173 **was originally constructed utilizing financing authorized**  
174 **pursuant to chapter 100 for construction, upon the transfer**  
175 **of ownership of such property to the public utility company**  
176 **such property shall be valued and taxed by any local**  
177 **authorities having jurisdiction under the provisions of**  
178 **chapter 137 and other relevant provisions of law.**

179 (2) Notwithstanding any provision of law to the  
180 contrary, beginning January 1, 2022, for any public utility  
181 company assessed pursuant to this chapter which has  
182 ownership of any real or personal property associated with a  
183 generation project which was originally constructed  
184 utilizing financing authorized pursuant to chapter 100 for  
185 construction, upon the transfer of ownership of such  
186 property to the public utility company such property shall  
187 be assessed as follows:

188 (a) Any property associated with a generation project  
189 which was originally constructed utilizing financing  
190 authorized pursuant to chapter 100 for construction shall be  
191 assessed upon the county assessor's local tax rolls. The

192 assessor shall rely on the public utility company for cost  
193 information of the generation portion of the property as  
194 found in the public utility company's Federal Energy  
195 Regulatory Commission Financial Report Form Number One at  
196 the time of transfer of ownership, and depreciate the costs  
197 provided in a manner similar to other commercial and  
198 industrial property.

199 (b) Any property consisting of land and buildings  
200 related to the generation property associated with a  
201 generation project which was originally constructed  
202 utilizing financing pursuant to chapter 100 for construction  
203 shall be assessed under chapter 137; and

204 (c) All other business or personal property related to  
205 a generation project which was originally constructed  
206 utilizing financing pursuant to chapter 100 for construction  
207 shall be assessed using the methodology provided under  
208 section 137.122.

153.034. 1. The term "distributable property" of an  
2 electric company shall include all the real or tangible  
3 personal property which is used directly in the generation  
4 and distribution of electric power, but not property used as  
5 a collateral facility nor property held for purposes other  
6 than generation and distribution of electricity. Such  
7 distributable property includes, but is not limited to:

8 (1) Boiler plant equipment, turbogenerator units and  
9 generators;

10 (2) Station equipment;

11 (3) Towers, fixtures, poles, conductors, conduit  
12 transformers, services and meters;

13 (4) Substation equipment and fences;

14 (5) Rights-of-way;

15           (6) Reactor, reactor plant equipment, and cooling  
16 towers;

17           (7) Communication equipment used for control of  
18 generation and distribution of power;

19           (8) Land associated with such distributable property.

20           2. The term "local property" of an electric company  
21 shall include all real and tangible personal property owned,  
22 used, leased or otherwise controlled by the electric company  
23 not used directly in the generation and distribution of  
24 power and not defined in subsection 1 of this section as  
25 distributable property. Such local property includes, but  
26 is not limited to:

27           (1) Motor vehicles;

28           (2) Construction work in progress;

29           (3) Materials and supplies;

30           (4) Office furniture, office equipment, and office  
31 fixtures;

32           (5) Coal piles and nuclear fuel;

33           (6) Land held for future use;

34           (7) Workshops, warehouses, office buildings and  
35 generating plant structures;

36           (8) Communication equipment not used for control of  
37 generation and distribution of power;

38           (9) Roads, railroads, and bridges;

39           (10) Reservoirs, dams, and waterways;

40           (11) Land associated with other locally assessed  
41 property and all generating plant land.

42           3. (1) Any real or tangible personal property  
43 associated with a project which uses wind energy directly to  
44 generate electricity shall be valued and taxed by local  
45 authorities having jurisdiction under the provisions of  
46 chapter 137 and any other relevant provisions of law. The

47 method of taxation prescribed in subsection 2 of section  
48 153.030 and subsection 1 of this section shall not apply to  
49 such property.

50 (2) The real or tangible personal property referenced  
51 in subdivision (1) of this subsection shall include all  
52 equipment whose sole purpose is to support the integration  
53 of a wind generation asset into an existing system.  
54 Examples of such property may include, but are not limited  
55 to, wind chargers, windmills, wind turbines, wind towers,  
56 and associated electrical equipment such as inverters, pad  
57 mount transformers, power lines, storage equipment directly  
58 associated with wind generation assets, and substations.

59 **4. For any real or tangible personal property**  
60 **associated with a generation project which was originally**  
61 **constructed utilizing financing authorized under chapter 100**  
62 **for construction, upon the transfer of ownership of such**  
63 **property to a public utility, such property shall be valued**  
64 **and taxed by local authorities having jurisdiction under the**  
65 **provisions of chapter 137 and any other relevant provisions**  
66 **of law. The method of taxation prescribed in subsection 2**  
67 **of section 153.030 and subsection 1 of this section shall**  
68 **not apply to such property.**

204.569. When an unincorporated sewer subdistrict of a  
2 common sewer district has been formed pursuant to sections  
3 204.565 to 204.573, the board of trustees of the common  
4 sewer district shall have the same powers with regard to the  
5 subdistrict as for the common sewer district as a whole,  
6 plus the following additional powers:

7 (1) To enter into agreements to accept, take title to,  
8 or otherwise acquire, and to operate such sewers, sewer  
9 systems, treatment and disposal facilities, and other  
10 property, both real and personal, of the political



11 subdivisions included in the subdistrict as the board  
12 determines to be in the interest of the common sewer  
13 district to acquire or operate, according to such terms and  
14 conditions as the board finds reasonable, provided that such  
15 authority shall be in addition to the powers of the board of  
16 trustees pursuant to section 204.340;

17 (2) To provide for the construction, extension,  
18 improvement, and operation of such sewers, sewer systems,  
19 and treatment and disposal facilities, as the board  
20 determines necessary for the preservation of public health  
21 and maintenance of sanitary conditions in the subdistrict;

22 (3) For the purpose of meeting the costs of activities  
23 undertaken pursuant to the authority granted in this  
24 section, to issue bonds in anticipation of revenues of the  
25 subdistrict in the same manner as set out in sections  
26 204.360 to 204.450, for other bonds of the common sewer  
27 district. Issuance of such bonds for the subdistrict shall  
28 require the assent only of four-sevenths of the voters of  
29 the subdistrict voting on the question[, and] **except that,**  
30 **as an alternative to such a vote, if the subdistrict is a**  
31 **part of a common sewer district located in whole or in part**  
32 **in any county of the first classification without a charter**  
33 **form of government adjacent to a county of the first**  
34 **classification with a charter form of government and a**  
35 **population of at least six hundred thousand and not more**  
36 **than seven hundred fifty thousand, bonds may be issued for**  
37 **such subdistrict if the question receives the written assent**  
38 **of three-quarters of the customers of the subdistrict in a**  
39 **manner consistent with section 204.370, where "customer", as**  
40 **used in this subdivision, means any political subdivision**  
41 **within the subdistrict that has a service or user agreement**  
42 **with the common sewer district. The principal and interest**

43 of such bonds shall be payable only from the revenues of the  
44 subdistrict and not from any revenues of the common sewer  
45 district as a whole;

46 (4) To charge the costs of the common sewer district  
47 for operation and maintenance attributable to the  
48 subdistrict, plus a proportionate share of the common sewer  
49 district's costs of administration to revenues of the  
50 subdistrict and to consider such costs in determining  
51 reasonable charges to impose within the subdistrict under  
52 section 204.440;

53 (5) With prior concurrence of the subdistrict's  
54 advisory board, to provide for the treatment and disposal of  
55 sewage from the subdistrict in or by means of facilities of  
56 the common sewer district not located within the  
57 subdistrict, in which case the board of trustees shall also  
58 have authority to charge a proportionate share of the costs  
59 of the common sewer district for operation and maintenance  
60 to revenues of the subdistrict and to consider such costs in  
61 determining reasonable charges to impose within the  
62 subdistrict under section 204.440.

393.358. 1. For purposes of this section, the  
2 following terms shall mean:

3 (1) "Commission", the Missouri public service  
4 commission established under section 386.040;

5 (2) "Water corporation", a corporation with more than  
6 one thousand Missouri customers that otherwise meets the  
7 definition of "water corporation" in section 386.020.

8 2. Water corporations shall develop a qualification  
9 process open to all contractors seeking to provide  
10 construction and construction-related services for planned  
11 infrastructure projects on the water corporation's  
12 distribution system. The water corporation shall specify

13 qualification requirements and goals for contractors seeking  
14 to perform such work, including but not limited to  
15 experience, performance criteria, safety record and  
16 policies, technical expertise, scheduling needs and  
17 available resources, supplier diversity and insurance  
18 requirements. Contractors that meet the qualification  
19 requirements shall be eligible to participate in a  
20 competitive bidding process for providing construction and  
21 construction-related services for planned infrastructure  
22 projects on the water corporation's distribution system, and  
23 the contractor making the lowest and best bid shall be  
24 awarded such contract. For contractors not qualifying  
25 through the competitive bid process, the water corporation,  
26 upon request from the contractor, shall provide information  
27 from the process in which the contractor can be informed as  
28 to how to be better positioned to qualify for such bid  
29 opportunities in the future. Nothing in this section shall  
30 be construed as requiring any water corporation to use third  
31 parties instead of its own employees to perform such work,  
32 to use the contractor qualification or competitive bidding  
33 process in the case of an emergency project, or to terminate  
34 any existing contract with a contractor prior to its  
35 expiration.

36 3. Within thirty days after August 28, 2018, and with  
37 the filing of a general rate proceeding initiated by the  
38 water corporation, the water corporation shall file a  
39 statement with the commission confirming it has established  
40 a qualification process meeting the requirements of this  
41 section and that such process is used for no less than [ten]  
42 **twenty** percent of the corporation's external expenditures  
43 for planned infrastructure projects on the water  
44 corporation's distribution system. The commission shall

45 have the authority to verify the statements to ensure  
46 compliance with this section.

47 4. By December 31, 2020, the commission shall submit a  
48 report to the general assembly on the effects of this  
49 section, including water corporation compliance, the costs  
50 of performing planned infrastructure projects prior to the  
51 implementation of this section compared to after the  
52 implementation of this section, and any other information  
53 regarding the process established under this section that  
54 the commission deems necessary.

**393.1500. Sections 393.1500 to 393.1509 shall be known  
2 and may be cited as the "Missouri Water and Sewer  
3 Infrastructure Act".**

**393.1503. As used in sections 393.1500 to 393.1509,  
2 the following terms shall mean:**

3 (1) "Appropriate pretax revenues", the revenues  
4 necessary to produce net operating income equal to:

5 (a) The water or sewer corporation's pretax weighted  
6 cost of capital multiplied by the net original cost of  
7 eligible infrastructure system projects, including  
8 recognition of accumulated deferred income taxes and  
9 accumulated depreciation associated with eligible  
10 infrastructure system projects which are included in the  
11 petition to establish or change a WSIRA, plus accumulated  
12 deferred income taxes and accumulated depreciation  
13 associated with any eligible infrastructure system projects  
14 in a currently effective WSIRA implemented pursuant to  
15 sections 393.1506 and 393.1509;

16 (b) The state, federal, and local income or excise  
17 taxes applicable to such revenues;

18 (c) The depreciation expense applicable to the  
19 eligible infrastructure system project less annual

20 depreciation expense associated with any related facility  
21 retirements; and

22 (d) The property taxes applicable to the eligible  
23 infrastructure that will be due within twelve months of the  
24 filing of a request to implement a water and sewer  
25 infrastructure rate adjustment pursuant to sections 393.1506  
26 and 393.1509, less any property taxes associated with any  
27 related facility retirements;

28 (2) "Commission", the Missouri public service  
29 commission;

30 (3) "Eligible infrastructure system projects", water  
31 or sewer utility plant projects that:

32 (a) Replace or extend the useful life of existing  
33 infrastructure;

34 (b) Are in service and used and useful;

35 (c) Do not include projects intended solely for  
36 customer growth; and

37 (d) The costs of which were not recovered in the water  
38 or sewer corporation's base rates in its most recent general  
39 rate case;

40 (4) "Sewer corporation", the same as defined in  
41 section 386.020;

42 (5) "Water and sewer infrastructure rate adjustment"  
43 or "WSIRA", a separate line item rate on a customer's water  
44 or sewer bill designed to recover the appropriate pretax  
45 revenues associated with eligible infrastructure system  
46 projects implemented pursuant to sections 393.1500 to  
47 393.1509;

48 (6) "Water corporation", the same as defined in  
49 section 386.020;

50 (7) "Water or sewer utility plant projects", shall  
51 consist of the following:

- 52           (a) Replacement of or cleaning and relining of  
53 existing water and sewer pipes, and associated valves,  
54 hydrants, meters, service lines, laterals, sewer taps,  
55 curbstops, and manholes;
- 56           (b) Replacement of lead mains, lead goosenecks and  
57 lead service lines, and associated valves and meters;
- 58           (c) Replacement of booster station and lift station  
59 pumps, with equipment of similar capacity and operation, as  
60 well as related pipes, valves, and meters; and
- 61           (d) Facilities relocations required due to  
62 construction or improvement of a highway, road, street,  
63 public way, or other public work by or on behalf of the  
64 United States, this state, a political subdivision of this  
65 state, or another entity having the power of eminent domain;  
66 provided that the costs related to such projects have not  
67 been reimbursed to the water or sewer corporation;
- 68           (e) Replacement of water and wastewater treatment  
69 mechanical equipment with equipment of similar capacity and  
70 operation, including well and intake pumps, transfer pumps,  
71 high service or discharge pumps, and metering pumps;
- 72           (f) Replacement of Supervisory Control and Data  
73 Acquisition System (SCADA) components necessary for the  
74 operation and monitoring of remote installations including  
75 radio and cellular communication equipment, and programmable  
76 logic controllers;
- 77           (8) "WSIRA revenues", revenues produced through  
78 implementation of a WSIRA pursuant to sections 393.1500 to  
79 393.1509, exclusive of revenues from all other rates and  
80 charges.

393.1506. 1. Notwithstanding any provisions of  
2 chapter 386 and this chapter to the contrary, a water or  
3 sewer corporation that provides water or sewer service to

4 more than eight thousand customer connections may file a  
5 petition and proposed rate schedules with the commission to  
6 establish or change a WSIRA that will provide for the  
7 recovery of the appropriate pretax revenues associated with  
8 the eligible infrastructure system projects, less the  
9 appropriate pretax revenues associated with any retired  
10 utility plant that is being replaced by the eligible  
11 infrastructure system projects. The WSIRA shall not produce  
12 revenues in excess of fifteen percent of the water or sewer  
13 corporation's base revenue requirement approved by the  
14 commission in the water or sewer corporation's most recent  
15 general rate proceeding; provided, however, that neither  
16 WSIRA revenues attributable to replacement of customer-owned  
17 lead service lines, nor any reconciliation amounts described  
18 in subdivision (2) of subsection 5 of section 393.1509,  
19 shall count toward the program cap. The WSIRA and any  
20 future changes thereto shall be calculated and implemented  
21 in accordance with the provisions of sections 393.1503 to  
22 393.1509. WSIRA revenues shall be subject to refund based  
23 upon a finding and order of the commission, to the extent  
24 provided in subsections 5 and 8 of section 393.1509.

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

32 3. In no event shall a water or sewer corporation  
33 collect a WSIRA for a period exceeding three years unless  
34 the water or sewer corporation has filed for or is the  
35 subject of a pending general rate proceeding; provided that

36 the WSIRA may be collected until the effective date of new  
37 rate schedules established as a result of the new general  
38 rate proceeding, or until the subject general rate  
39 proceeding is otherwise decided or dismissed by issuance of  
40 a commission order without new rates being established.

41 4. Except as provided in this subsection, in no event  
42 shall a water or sewer corporation collect a WSIRA if also  
43 collecting revenues from a commission approved  
44 infrastructure system replacement surcharge as provided in  
45 sections 393.1000 to 393.1006. In no event shall a customer  
46 be charged both an infrastructure system replacement  
47 surcharge as provided in sections 393.1000 to 393.1006 and a  
48 WSIRA. In the event a water or sewer corporation is  
49 collecting infrastructure system replacement surcharge  
50 revenues under sections 393.1000 to 393.1006, that was  
51 approved prior to August 28, 2021, when the initial WSIRA is  
52 filed, the approved infrastructure system replacement  
53 surcharge revenues shall be included in the new WSIRA filing.

393.1509. 1. (1) At the time that a water or sewer  
2 corporation files a petition with the commission seeking to  
3 establish or change a WSIRA, it shall submit proposed WSIRA  
4 rate schedules and supporting documentation regarding the  
5 calculation of the proposed WSIRA with the petition and  
6 shall serve the office of the public counsel with a copy of  
7 its petition, its proposed WSIRA rate schedules, and its  
8 supporting documentation.

9 (2) Upon the filing of a petition and any associated  
10 WSIRA rate schedules, seeking to establish or change a  
11 WSIRA, the commission shall publish notice of the filing.

12 (3) Three months prior to a water or sewer corporation  
13 filing a petition to establish a WSIRA, it shall also file  
14 with the commission a five-year capital expenditure plan



15 unless such a plan has already been submitted during the  
16 current calendar year. Thereafter, the water or sewer  
17 commission shall annually file with the commission a five-  
18 year capital expenditure plan by January thirty-first of  
19 each year the corporation is collecting revenues through a  
20 WSIRA.

21 2. (1) When a petition, along with any associated  
22 proposed rate schedules, is filed pursuant to the provisions  
23 of sections 393.1503 to 393.1509, the commission shall  
24 conduct an examination of the proposed WSIRA.

25 (2) The staff of the commission may examine  
26 information of the water or sewer corporation to confirm  
27 that the underlying costs are in accordance with the  
28 provisions of sections 393.1503 to 393.1509, and to confirm  
29 proper calculation of the proposed WSIRA, and may submit a  
30 report regarding its examination to the commission not later  
31 than ninety days after the petition is filed. No other  
32 revenue requirement or ratemaking issues shall be examined  
33 in consideration of the petition or associated proposed  
34 WSIRA rate schedules filed pursuant to the provisions of  
35 sections 393.1503 to 393.1509.

36 (3) The commission may hold a hearing on the petition  
37 and any associated WSIRA rate schedule and shall issue an  
38 order to become effective not later than one hundred eighty  
39 days after the petition is filed.

40 (4) If the commission finds that a petition complies  
41 with the requirements of sections 393.1503 to 393.1509, the  
42 commission shall enter an order authorizing the water or  
43 sewer corporation to implement a WSIRA that is sufficient to  
44 recover appropriate pretax revenues, as determined by the  
45 commission pursuant to the provisions of sections 393.1503  
46 to 393.1509.

47           3. A water or sewer corporation may effectuate a  
48 change in its WSIRA pursuant to this section no more often  
49 than two times in every twelve-month period.

50           4. In determining the appropriate pretax revenues, the  
51 commission shall consider only the following factors:

52           (1) The current state, federal, and local income or  
53 excise tax rates, including any income tax deductions;

54           (2) The water or sewer corporation's actual regulatory  
55 capital structure as determined during the most recent  
56 general rate proceeding of the water or sewer corporation;

57           (3) The actual cost rates for the water or sewer  
58 corporation's debt and preferred stock as determined during  
59 the most recent general rate proceeding of the water or  
60 sewer corporation;

61           (4) The water or sewer corporation's cost of common  
62 equity as determined during the most recent general rate  
63 proceeding of the water or sewer corporation;

64           (5) The current property tax rate or rates applicable  
65 to the eligible infrastructure system projects;

66           (6) The current depreciation rates applicable to the  
67 eligible infrastructure system projects;

68           (7) In the event information described in subdivisions  
69 (2), (3), and (4) of this subsection is unavailable and the  
70 commission is not provided with such information on an  
71 agreed-upon basis, the commission shall utilize the overall  
72 pretax weighted average cost of capital last authorized for  
73 the water or sewer corporation in a general rate proceeding  
74 regarding a WSIRA or an infrastructure system replacement  
75 surcharge under sections 393.1000 to 393.1006.

76           5. (1) A WSIRA shall be calculated based upon the  
77 amount of infrastructure system project costs that are  
78 eligible for recovery during the period in which the WSIRA

79 will be in effect and upon the applicable tariff rate group  
80 billing determinants utilized in designing the water or  
81 sewer corporation's customer rates in its most recent  
82 general rate proceeding and allocated in a manner consistent  
83 with the rate design methodology utilized to develop the  
84 water or sewer corporation's base rates resulting from its  
85 most recent general rate proceeding.

86 (2) At the end of each twelve-month calendar period  
87 that a WSIRA is in effect, the water or sewer corporation  
88 shall reconcile the differences between the revenues  
89 resulting from a WSIRA and the appropriate pretax revenues  
90 as found by the commission for that period and shall submit  
91 the reconciliation and a proposed WSIRA to the commission  
92 for approval to recover or credit the difference, as  
93 appropriate, through a WSIRA.

94 6. (1) A water or sewer corporation that has  
95 implemented a WSIRA pursuant to the provisions of sections  
96 393.1503 to 393.1509 shall file revised WSIRA schedules to  
97 reset the WSIRA to zero when new base rates and charges  
98 become effective for the water or sewer corporation  
99 following a commission order establishing customer rates in  
100 a general rate proceeding that incorporates in the utility's  
101 base rates, subject to subsections 8 and 9 of this section,  
102 eligible costs previously reflected in a WSIRA.

103 (2) Upon the inclusion in a water or sewer  
104 corporation's base rates, subject to subsections 8 and 9 of  
105 this section, of eligible costs previously reflected in a  
106 WSIRA, the water or sewer corporation shall immediately  
107 thereafter reconcile any previously unreconciled WSIRA  
108 revenues as necessary to ensure that revenues resulting from  
109 the WSIRA match as closely as possible the appropriate  
110 pretax revenues as found by the commission for that period.

111           7. A water or sewer corporation's filing of a petition  
112 to establish or change a WSIRA pursuant to the provisions of  
113 sections 393.1503 to 393.1509 shall not be considered a  
114 request for a general increase in the water or sewer  
115 corporation's base rates and charges.

116           8. Commission approval of a petition, and any  
117 associated rate schedules, to establish or change a WSIRA  
118 pursuant to the provisions of sections 393.1503 to 393.1509  
119 shall in no way be binding upon the commission in  
120 determining the ratemaking treatment to be applied to  
121 eligible infrastructure system projects during a subsequent  
122 general rate proceeding when the commission may undertake to  
123 review the prudence of such costs. In the event the  
124 commission disallows, during a subsequent general rate  
125 proceeding, recovery of costs associated with eligible  
126 infrastructure system projects previously included in a  
127 WSIRA, the water or sewer corporation shall offset its WSIRA  
128 in the future as necessary to recognize and account for any  
129 such overcollections.

130           9. Nothing contained in sections 393.1503 to 393.1509  
131 shall be construed to impair in any way the authority of the  
132 commission to review the reasonableness of the rates or  
133 charges of a water or sewer corporation, including review of  
134 the prudence of eligible infrastructure system replacements  
135 made by a water or sewer corporation, pursuant to the  
136 provisions of section 386.390.

137           10. The commission may take into account any change in  
138 business risk to the water or sewer corporation resulting  
139 from implementation of the WSIRA in setting the  
140 corporation's allowed return in a general rate proceeding in  
141 addition to any other changes in business risk experienced  
142 by the corporation.

143           11. The commission shall have authority to promulgate  
144 rules for the implementation of sections 393.1503 to  
145 393.1509, but only to the extent such rules are consistent  
146 with, and do not delay the implementation of, the provisions  
147 of sections 393.1503 to 393.1509. Any rule or portion of a  
148 rule, as that term is defined in section 536.010, that is  
149 created under the authority delegated in this section shall  
150 become effective only if it complies with and is subject to  
151 all of the provisions of chapter 536 and, if applicable,  
152 section 536.028. This section and chapter 536 are  
153 nonseverable and if any of the powers vested with the  
154 general assembly pursuant to chapter 536 to review, to delay  
155 the effective date, or to disapprove and annul a rule are  
156 subsequently held unconstitutional, then the grant of  
157 rulemaking authority and any rule proposed or adopted after  
158 August 28, 2021, shall be invalid and void.

159           12. The provisions of sections 393.1500 to 393.1509  
160 shall expire on December 31, 2031.

394.120. 1. No person shall become a member of a  
2 cooperative unless such person shall agree to use electric  
3 energy furnished by the cooperative when such electric  
4 energy shall be available through its facilities. The  
5 bylaws of a cooperative may provide that any person,  
6 including an incorporator, shall cease to be a member  
7 thereof if he or she shall fail or refuse to use electric  
8 energy made available by the cooperative or if electric  
9 energy shall not be made available to such person by the  
10 cooperative within a specified time after such person shall  
11 have become a member thereof. Membership in the cooperative  
12 shall not be transferable, except as provided in the bylaws.  
13 The bylaws may prescribe additional qualifications and  
14 limitations in respect of membership.

15           2. An annual meeting of the members shall be held at  
16 such time as shall be provided in the bylaws.

17           3. Special meetings of the members may be called by  
18 the board of directors, by any three directors, by not less  
19 than ten percent of the members, or by the president.

20           4. Meetings of members shall be held at such place as  
21 may be provided in the bylaws. In the absence of any such  
22 provisions, all meetings shall be held in the city or town  
23 in which the principal office of the cooperative is located.

24           5. Except as herein otherwise provided, written or  
25 printed notice stating the time and place of each meeting of  
26 members and, in the case of a special meeting, the purpose  
27 or purposes for which the meeting is called, shall be given  
28 to each member, either personally or by mail, not less than  
29 ten nor more than twenty-five days before the date of the  
30 meeting.

31           6. Two percent of the first two thousand members and  
32 one percent of the remaining members, present in person, or  
33 if the bylaws so provide, participating electronically or by  
34 mail, shall constitute a quorum for the transaction of  
35 business at all meetings of the members, unless the bylaws  
36 prescribe the presence of a greater percentage of the  
37 members for a quorum. If less than a quorum is present at  
38 any meeting, a majority of those present in person may  
39 adjourn the meeting from time to time without further notice.

40           7. Each member shall be entitled to one vote on each  
41 matter submitted to a vote at a meeting. Voting shall be in  
42 person, but, if the bylaws so provide, may also be by proxy,  
43 by electronic means, by mail, or any combination thereof.  
44 If the bylaws provide for voting by proxy, by electronic  
45 means, or by mail, they shall also prescribe the conditions  
46 under which proxy, electronic, or mail voting shall be

47 exercised. In any event, no person shall vote as proxy for  
48 more than two members at any meeting of the members.

49 **8. Notwithstanding the provisions of subsections 2 and**  
50 **7 of this section, the board of directors shall have the**  
51 **power to set the time and place of the annual meeting and**  
52 **also to provide for voting by proxy, electronic means, by**  
53 **mail, or any combination thereof, and to prescribe the**  
54 **conditions under which such voting shall be exercised. The**  
55 **meeting requirement provided in this section may be**  
56 **satisfied through virtual means. The provisions of this**  
57 **subsection shall expire on August 28, 2022.**

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