

House _____ Amendment NO. _____

Offered By

1 AMEND Senate Substitute for Senate Committee Substitute for Senate Bill No. 241, Page 19,
2 Section 67.5104, Line 17, by inserting after all of said Section and Line the following:

3
4 "386.210. 1. The commission may confer in person, or by correspondence, by attending
5 conventions, or in any other way, with the members of the public, any public utility or similar
6 commission of this and other states and the United States of America, or any official, agency or
7 instrumentality thereof, on any matter relating to the performance of its duties.

8 2. Such communications may address any issue that at the time of such communication is not
9 the subject of a case that has been filed with the commission.

10 3. Such communications may also address substantive or procedural matters that are the
11 subject of a pending filing or case in which no evidentiary hearing has been scheduled, provided that
12 the communication:

13 (1) Is made at a public agenda meeting of the commission where such matter has been posted
14 in advance as an item for discussion or decision;

15 (2) Is made at a forum where representatives of the public utility affected thereby, the office
16 of public counsel, and any other party to the case are present; or

17 (3) If made outside such agenda meeting or forum, is subsequently disclosed to the public
18 utility, the office of the public counsel, and any other party to the case in accordance with the
19 following procedure:

20 (a) If the communication is written, the person or party making the communication shall no
21 later than the next business day following the communication file a copy of the written
22 communication in the official case file of the pending filing or case and serve it upon all parties of
23 record;

24 (b) If the communication is oral, the party making the oral communication shall no later than
25 the next business day following the communication file a memorandum in the official case file of the
26 pending case disclosing the communication and serve such memorandum on all parties of record.
27 The memorandum must contain a summary of the substance of the communication and not merely a
28 listing of the subjects covered.

29 4. Nothing in this section or any other provision of law shall be construed as imposing any
30 limitation on the free exchange of ideas, views, and information between any person and the
31 commission or any commissioner, provided that such communications relate to matters of general
32 regulatory policy and do not address the merits of the specific facts, evidence, claims, or positions
33 presented or taken in a pending case unless such communications comply with the provisions of
34 subsection 3 of this section.

35 5. The commission and any commissioner may also advise any member of the general
36 assembly or other governmental official of the issues or factual allegations that are the subject of a
37 pending case, provided that the commission or commissioner does not express an opinion as to the

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1 merits of such issues or allegations, and may discuss in a public agenda meeting with parties to a
2 case in which an evidentiary hearing has been scheduled, any procedural matter in such case or any
3 matter relating to a unanimous stipulation or agreement resolving all of the issues in such case.

4 6. The commission may enter into and establish fair and equitable cooperative agreements or
5 contracts with or act as an agent or licensee for the United States of America, or any official, agency
6 or instrumentality thereof, or any public utility or similar commission of other states, that are proper,
7 expedient, fair and equitable and in the interest of the state of Missouri and the citizens thereof, for
8 the purpose of carrying out its duties pursuant to section 386.250 as limited and supplemented by
9 section 386.030 and to that end the commission may receive and disburse any contributions, grants
10 or other financial assistance as a result of or pursuant to such agreements or contracts. Any
11 contributions, grants or other financial assistance so received shall be deposited in the public service
12 commission utility fund or the state highway commission fund depending upon the purposes for
13 which they are received.

14 7. The commission may make joint investigations, hold joint hearings within or without the
15 state, and issue joint or concurrent orders in conjunction or concurrence with any railroad, public
16 utility or similar commission, of other states or the United States of America, or any official, agency
17 or any instrumentality thereof, except that in the holding of such investigations or hearings, or in the
18 making of such orders, the commission shall function under agreements or contracts between states
19 or under the concurrent power of states to regulate interstate commerce, or as an agent of the United
20 States of America, or any official, agency or instrumentality thereof, or otherwise.

21 8. The commission may appear, participate, and intervene in any federal, state, or other
22 administrative, regulatory, or judicial proceeding in which the commission has standing. This
23 subsection applies to all proceedings now pending or commenced after the effective date of this
24 section.

25 386.370. 1. The commission shall, prior to the beginning of each fiscal year beginning with
26 the fiscal year commencing on July 1, 1947, make an estimate of the expenses to be incurred by it
27 during such fiscal year reasonably attributable to the regulation of public utilities as provided in
28 chapters 386, 392 and 393 and shall also separately estimate the amount of such expenses directly
29 attributable to such regulation of each of the following groups of public utilities: Electrical
30 corporations, gas corporations, water corporations, heating companies and telephone corporations,
31 telegraph corporations, sewer corporations, and any other public utility as defined in section
32 386.020, as well as the amount of such expenses not directly attributable to any such group. For
33 purposes of this section, water corporations and sewer corporations will be combined and considered
34 one group of public utilities.

35 2. The commission shall allocate to each such group of public utilities the estimated
36 expenses directly attributable to the regulation of such group and an amount equal to such proportion
37 of the estimated expenses not directly attributable to any group as the gross intrastate operating
38 revenues of such group during the preceding calendar year bears to the total gross intrastate
39 operating revenues of all public utilities subject to the jurisdiction of the commission, as aforesaid,
40 during such calendar year. The commission shall then assess the amount so allocated to each group
41 of public utilities, subject to reduction as herein provided, to the public utilities in such group in
42 proportion to their respective gross intrastate operating revenues during the preceding calendar year,
43 except that the total amount so assessed to all such public utilities shall not exceed one-fourth of one
44 percent of the total gross intrastate operating revenues of all utilities subject to the jurisdiction of the
45 commission.

46 3. The commission shall render a statement of such assessment to each such public utility on
47 or before July first and the amount so assessed to each such public utility shall be paid by it to the
48 director of revenue in full on or before July fifteenth next following the rendition of such statement,

1 except that any such public utility may at its election pay such assessment in four equal installments
 2 not later than the following dates next following the rendition of said statement, to wit: July
 3 fifteenth, October fifteenth, January fifteenth and April fifteenth. The director of revenue shall remit
 4 such payments to the state treasurer.

5 4. The state treasurer shall credit such payments to a special fund, which is hereby created, to
 6 be known as "The Public Service Commission Fund", which fund, or its successor fund created
 7 pursuant to section 33.571, shall be devoted solely to the payment of expenditures actually incurred
 8 by the commission and attributable to the regulation of such public utilities subject to the jurisdiction
 9 of the commission, as aforesaid. Any amount remaining in such special fund or its successor fund at
 10 the end of any fiscal year shall not revert to the general revenue fund, but shall be applicable by
 11 appropriation of the general assembly to the payment of such expenditures of the commission in the
 12 succeeding fiscal year and shall be applied by the commission to the reduction of the amount to be
 13 assessed to such public utilities in such succeeding fiscal year, such reduction to be allocated to each
 14 group of public utilities in proportion to the respective gross intrastate operating revenues of the
 15 respective groups during the preceding calendar year.

16 5. In order to enable the commission to make the allocations and assessments herein
 17 provided for, each public utility subject to the jurisdiction of the commission as aforesaid shall file
 18 with the commission, within ten days after August 28, 1996, and thereafter on or before March
 19 thirty-first of each year, a statement under oath showing its gross intrastate operating revenues for the
 20 preceding calendar year, and if any public utility shall fail to file such statement within the time
 21 aforesaid the commission shall estimate such revenue which estimate shall be binding on such public
 22 utility for the purpose of this section."; and
 23

24 Further amend said bill, Page 24, Section 389.591, Line 9, by inserting after all of said section and
 25 line the following:

26
 27 "393.190. 1. No gas corporation, electrical corporation, water corporation or sewer
 28 corporation shall hereafter sell, assign, lease, transfer, mortgage or otherwise dispose of or encumber
 29 the whole or any part of its franchise, works or system, necessary or useful in the performance of its
 30 duties to the public, nor by any means, direct or indirect, merge or consolidate such works or system,
 31 or franchises, or any part thereof, with any other corporation, person or public utility, without having
 32 first secured from the commission an order authorizing it so to do. Every such sale, assignment,
 33 lease, transfer, mortgage, disposition, encumbrance, merger or consolidation made other than in
 34 accordance with the order of the commission authorizing same shall be void. The permission and
 35 approval of the commission to the exercise of a franchise or permit under this chapter, or the sale,
 36 assignment, lease, transfer, mortgage or other disposition or encumbrance of a franchise or permit
 37 under this section shall not be construed to revive or validate any lapsed or invalid franchise or
 38 permit, or to enlarge or add to the powers or privileges contained in the grant of any franchise or
 39 permit, or to waive any forfeiture. Any person seeking any order under this subsection authorizing
 40 the sale, assignment, lease, transfer, merger, consolidation or other disposition, direct or indirect, of
 41 any gas corporation, electrical corporation, water corporation, or sewer corporation, shall, at the time
 42 of application for any such order, file with the commission a statement, in such form, manner and
 43 detail as the commission shall require, as to what, if any, impact such sale, assignment, lease,
 44 transfer, merger, consolidation, or other disposition will have on the tax revenues of the political
 45 subdivisions in which any structures, facilities or equipment of the corporations involved in such
 46 disposition are located. The commission shall send a copy of all information obtained by it as to
 47 what, if any, impact such sale, assignment, lease, transfer, merger, consolidation or other disposition
 48 will have on the tax revenues of various political subdivisions to the county clerk of each county in

1 which any portion of a political subdivision which will be affected by such disposition is located.
2 Nothing in this subsection contained shall be construed to prevent the sale, assignment, lease or other
3 disposition by any corporation, person or public utility of a class designated in this subsection of
4 property which is not necessary or useful in the performance of its duties to the public, and any sale
5 of its property by such corporation, person or public utility shall be conclusively presumed to have
6 been of property which is not useful or necessary in the performance of its duties to the public, as to
7 any purchaser of such property in good faith for value.

8 2. No such corporation shall directly or indirectly acquire the stock or bonds of any other
9 corporation incorporated for, or engaged in, the same or a similar business, or proposing to operate
10 or operating under a franchise from the same or any other municipality; neither shall any street
11 railroad corporation acquire the stock or bonds of any electrical corporation, unless, in either case,
12 authorized so to do by the commission. Save where stock shall be transferred or held for the purpose
13 of collateral security, no stock corporation of any description, domestic or foreign, other than a gas
14 corporation, electrical corporation, water corporation, sewer corporation or street railroad
15 corporation, shall, without the consent of the commission, purchase or acquire, take or hold, more
16 than ten percent of the total capital stock issued by any gas corporation, electrical corporation, water
17 corporation or sewer corporation organized or existing under or by virtue of the laws of this state,
18 except that a corporation now lawfully holding a majority of the capital stock of any gas corporation,
19 electrical corporation, water corporation or sewer corporation may, with the consent of the
20 commission, acquire and hold the remainder of the capital stock of such gas corporation, electrical
21 corporation, water corporation or sewer corporation, or any portion thereof.

22 3. No person, public utility, or other corporation shall purchase or acquire, take, or hold fifty
23 percent or more of the total capital stock issued by any sewer or water corporation that regularly
24 provides service to eight thousand or fewer customers without notifying the commission within
25 thirty days of said acquisition.

26 4. Notwithstanding subsection 3 of this section, any sewer or water corporation that
27 regularly provides service to eight thousand or fewer customers that is delinquent in filing its public
28 service commission annual report or is six months or more delinquent in paying its public service
29 commission assessment or is in violation of any other public service commission or Missouri
30 department of natural resources rules or regulations shall not sell or transfer fifty percent or more of
31 its total capital stock issued without the consent of the commission.

32 5. Nothing herein contained shall be construed to prevent the holding of stock heretofore
33 lawfully acquired, or to prevent upon the surrender or exchange of said stock pursuant to a
34 reorganization plan, the purchase, acquisition, taking or holding of a proportionate amount of stock
35 of any new corporation organized to take over, at foreclosure or other sale, the property of any
36 corporation whose stock has been thus surrendered or exchanged. Every contract, assignment,
37 transfer or agreement for transfer of any stock by or through any person or corporation to any
38 corporation in violation of any provision of this chapter shall be void and of no effect, and no such
39 transfer or assignment shall be made upon the books of any such gas corporation, electrical
40 corporation, water corporation or sewer corporation or shall be recognized as effective for any
41 purpose.

42 393.760. 1. Each participating municipality shall, in accordance with the provisions of
43 chapter 115, order an election to be held whereby the qualified electors in such participating
44 municipality shall approve or disapprove the issuance of its bonds to finance its individual interest in
45 the project. The participating municipality may not order such an election until it has received a
46 report from an independent consulting engineer as defined in section 327.181 for the purpose of
47 determining the economic and engineering feasibility of any proposed project the costs of which are
48 to be financed through the issuance of bonds. The report of the consulting engineer shall be

1 provided to and approved by the legislative body and executive of each such participating
2 municipality and such report shall be open to public inspection and shall be the subject of a public
3 hearing in each participating municipality. Notice of the time and place of each such hearing shall be
4 published in a daily newspaper of general circulation within each such participating municipality.
5 Interested parties may appear and fully participate in such hearings.

6 2. Each participating municipality shall notify the election authority or authorities
7 responsible for conducting elections within such participating municipality in accordance with
8 chapter 115.

9 3. The question shall be submitted in substantially the following form:

10 OFFICIAL BALLOT

11
12 Shall (name of participating municipality) issue its (type) revenue bonds in an amount not to
13 exceed \$..... for the purpose of paying its share of the cost of participating in (describe
14 project)?

15
16 YES NO

17 If you are in favor of the resolution, place an "X" in the box opposite "Yes".

18 If you are opposed to the question, place an "X" in the box opposite "No".

19
20 4. If the issuance of the bonds is approved by at least a majority of the qualified electors
21 voting thereon in the participating municipality, the participating municipality shall declare the result
22 of the election and cause the bonds to be issued.

23 5. Each participating municipality shall bear all expenses associated with the elections in
24 such participating municipality.

25 6. [In lieu of the public voting procedure set forth in subsections 1 to 5 of this section,] In the
26 case of purchasing or leasing, constructing, installing, and operating reservoirs, pipelines, wells,
27 check dams, pumping stations, water purification plants, and other facilities for the production,
28 wholesale distribution, and utilization of water, the commission may provide for a vote by the
29 governing body of each contracting municipality. Such vote shall require the approval of
30 three-quarters of all governing bodies of the contracting municipalities. The commission may not
31 order such a vote until it has engaged and received a report from an independent consulting engineer
32 as defined in section 327.181 for the purpose of determining the economic and engineering
33 feasibility of any proposed project the costs of which are to be financed through the issuance of
34 bonds. The report of the consulting engineer shall be provided to and approved by the legislative
35 body and executive of each contracting municipality participating in the project and such report shall
36 be open to public inspection and shall be the subject of a public hearing in each municipality
37 participating in the project. Notice of the time and place of each such hearing shall be published in a
38 daily newspaper of general circulation within each municipality. Interested parties may appear and
39 fully participate in such hearings. Each contracting municipality shall vote by ordinance or
40 resolution and such ordinance or resolution shall approve the issuance of revenue bonds by the joint
41 municipal water commission in an amount not to exceed a specified amount.

42 393.1000. As used in sections 393.1000 to 393.1006, the following terms mean:

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

45 (a) The water corporation's weighted cost of capital multiplied by the net original cost of
46 eligible infrastructure system replacements, including recognition of accumulated deferred income
47 taxes and accumulated depreciation associated with eligible infrastructure system replacements
48 which are included in a currently effective ISRS; and

- 1 (b) Recover state, federal, and local income or excise taxes applicable to such income; and
 2 (c) Recover all other ISRS costs;
- 3 (2) "Commission", the Missouri public service commission;
- 4 (3) "Eligible infrastructure system replacements", water utility plant projects that:
- 5 (a) Replace or extend the useful life of existing infrastructure;
- 6 (b) Are in service and used and useful;
- 7 (c) Do not increase revenues by directly connecting the infrastructure replacement to new
 8 customers; and
- 9 (d) Were not included in the water corporation's rate base in its most recent general rate case;
- 10 (4) "ISRS", infrastructure system replacement surcharge;
- 11 (5) "ISRS costs", depreciation expenses and property taxes that will be due within twelve
 12 months of the ISRS filing;
- 13 (6) "ISRS revenues", revenues produced through an ISRS, exclusive of revenues from all
 14 other rates and charges;
- 15 (7) "Water corporation", every corporation, company, association, joint stock company or
 16 association, partnership, and person, their lessees, trustees, or receivers appointed by any court
 17 whatsoever, owning, operating, controlling, or managing any plant or property, dam or water supply,
 18 canal, or power station, distributing or selling for distribution, or selling or supplying for gain any
 19 water to more than ten thousand customers;
- 20 (8) "Water utility plant projects" may consist only of the following:
- 21 (a) Mains, [and associated] valves [and] , hydrants, service lines, and meters, installed as
 22 replacements for existing facilities that have worn out or are in deteriorated condition or replaced as
 23 part of a commission order, or meters for automated meter reading;
- 24 (b) Main cleaning and relining projects; and
- 25 (c) Facilities relocations required due to construction or improvement of a highway, road,
 26 street, public way, or other public work by or on behalf of the United States, this state, a political
 27 subdivision of this state, or another entity having the power of eminent domain provided that the
 28 costs related to such projects have not been reimbursed to the water corporation.
- 29 393.1003. 1. Notwithstanding any provisions of chapter 386 and this chapter to the contrary,
 30 as of August 28, [2003] 2013, a water corporation [providing water service in a county with a charter
 31 form of government and with more than one million inhabitants] may file a petition and proposed
 32 rate schedules with the commission to establish or change ISRS rate schedules that will allow for the
 33 adjustment of the water corporation's rates and charges to provide for the recovery of costs for
 34 eligible infrastructure system replacements [made in such county with a charter form of government
 35 and with more than one million inhabitants]; provided that an ISRS[, on an annualized basis,] must
 36 produce ISRS revenues of at least one million dollars on an annualized basis, but not in excess of ten
 37 percent on an annualized basis of the water corporation's base revenue level approved by the
 38 commission in the water corporation's most recent general rate proceeding. An ISRS and any future
 39 changes thereto shall be calculated and implemented in accordance with the provisions of sections
 40 393.1000 to 393.1006. ISRS revenues shall be subject to refund based upon a finding and order of
 41 the commission, to the extent provided in subsections 5 and 8 of section 393.1006.
- 42 2. The commission shall not approve an ISRS for a water corporation [in a county with a
 43 charter form of government and with more than one million inhabitants] that has not had a general
 44 rate proceeding decided or dismissed by issuance of a commission order within the past three years,
 45 unless the water corporation has filed for or is the subject of a new general rate proceeding.
- 46 3. In no event shall a water corporation collect an ISRS for a period exceeding three years
 47 unless the water corporation has filed for or is the subject of a new general rate proceeding; provided
 48 that the ISRS may be collected until the effective date of new rate schedules established as a result of

1 the new general rate proceeding, or until the subject general rate proceeding is otherwise decided or
2 dismissed by issuance of a commission order without new rates being established.

3 4. As of August 28, 2019, the provisions of this section shall only apply to a water
4 corporation in a county with a charter form of government and more than one million inhabitants.";
5 and

6
7 Further amend said bill by amending the title, enacting clause, and intersectional references
8 accordingly.
9