

FIRST REGULAR SESSION
SENATE COMMITTEE SUBSTITUTE FOR
HOUSE COMMITTEE SUBSTITUTE FOR
HOUSE BILL NO. 247
99TH GENERAL ASSEMBLY

Reported from the Committee on Commerce, Consumer Protection, Energy and the Environment, May 4, 2017, with recommendation that the Senate Committee Substitute do pass.

ADRIANE D. CROUSE, Secretary.

0864S.05C

AN ACT

To repeal section 88.770, RSMo, and to enact in lieu thereof two new sections relating to voter approval for municipally-offered services.

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

Section A. Section 88.770, RSMo, is repealed and two new sections
2 enacted in lieu thereof, to be known as sections 71.284 and 88.770, to read as
3 follows:

**71.284. 1. If a local government offers a competitive service
2 where a private business also offers such service, no financial
3 resources or subsidization to support the service shall be allowed from
4 any revenue collected by the local government unless such usage of
5 funds for the competitive service is specifically approved by voters of
6 the city, town, or village.**

**7 2. The provisions of subsection 1 of this section shall not apply
8 if a single business, or a local government on behalf of such business,
9 makes a request for a communications service:**

10 **(1) Of a specific speed;**

11 **(2) At a specific location within the local government boundaries;**

12 **(3) On or before a specific date, which shall be no earlier than
13 one hundred eighty days prior to the planned opening of such business;**

14 **and**

15 **(4) That all existing communication service providers within the
16 local government boundaries are unable to provide, but the local
17 government can provide such communication service on such date.**

18 **3. For purposes of this section, the following terms mean:**

19 (1) "Communication service", a service that transports
20 information electronically including, but not limited to, internet
21 protocol enabled services which is provided by a wireless service
22 provider, broadband, or other internet protocol enabled service
23 provider, video service provider, telecommunications company, or
24 other communications-related service provider;

25 (2) "Competitive service", a wholesale or retail offering of a
26 specific communication service that is provided by one or more service
27 providers within the boundaries of the local government. "Competitive
28 service" shall not mean:

29 (a) Any service that a local government is prohibited from
30 offering by law;

31 (b) Any service that a local government is providing on the
32 effective date of this section, including the enhancement or expansion
33 of such service after the effective date of this section;

34 (c) Any wholesale service that is offered to all potential
35 purchasers including, but not limited to, a subdivision of a local
36 government under the same terms and conditions;

37 (d) The provision of free wireless communication services to the
38 public; or

39 (e) Any service that a local government uses exclusively for its
40 own internal purposes;

41 (3) "Financial resources or subsidization" shall not include the
42 following:

43 (a) The issuance of a loan by the city, town, or village, which is
44 provided under an agreement requiring the payment of principal and
45 interest of no less than prime, within ten years;

46 (b) The use of any state, federal, or other grant or loan that is
47 available to the local government for the purpose of providing the
48 competitive service;

49 (c) The use of assets owned by the local government, which are
50 provided under an agreement requiring the payment of fair market
51 value for use of such asset; or

52 (d) Any revenue collected by the local government as payment
53 for providing such competitive service;

54 (4) "Local government", any city, town, village, or entity under
55 the ownership or control of any city, town, or village.

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**
43 **system, which shall be authorized by a simple majority vote of the**
44 **voters voting on the question.**

45 2. The ballots shall be substantially in the following form and shall
46 indicate the property, or portion thereof, and whether the same is to be sold,
47 leased or encumbered:

48 Shall ____ (Indicate the property by stating whether electric
49 distribution system, electric transmission lines or waterworks, etc.)
50 be ____ (Indicate whether sold, leased or encumbered.)?

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