

FIRST REGULAR SESSION

HOUSE BILL NO. 788

97TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE FUNDERBURK.

1845L.011

D. ADAM CRUMBLISS, Chief Clerk

AN ACT

To repeal section 393.190, RSMo, and to enact in lieu thereof one new section relating to approval by the public service commission for the sale or transfer of a water or sewer utility.

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

Section A. Section 393.190, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 393.190, to read as follows:

393.190. 1. No gas corporation, electrical corporation, water corporation or sewer corporation shall hereafter sell, assign, lease, transfer, mortgage or otherwise dispose of or encumber the whole or any part of its franchise, works or system, necessary or useful in the performance of its duties to the public, nor by any means, direct or indirect, merge or consolidate such works or system, or franchises, or any part thereof, with any other corporation, person or public utility, without having first secured from the commission an order authorizing it so to do. Every such sale, assignment, lease, transfer, mortgage, disposition, encumbrance, merger or consolidation made other than in accordance with the order of the commission authorizing same shall be void. The permission and approval of the commission to the exercise of a franchise or permit under this chapter, or the sale, assignment, lease, transfer, mortgage or other disposition or encumbrance of a franchise or permit under this section shall not be construed to revive or validate any lapsed or invalid franchise or permit, or to enlarge or add to the powers or privileges contained in the grant of any franchise or permit, or to waive any forfeiture. Any person seeking any order under this subsection authorizing the sale, assignment, lease, transfer, merger, consolidation or other disposition, direct or indirect, of any gas corporation, electrical corporation, water corporation, or sewer corporation, shall, at the time of application for any such

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

17 order, file with the commission a statement, in such form, manner and detail as the commission
18 shall require, as to what, if any, impact such sale, assignment, lease, transfer, merger,
19 consolidation, or other disposition will have on the tax revenues of the political subdivisions in
20 which any structures, facilities or equipment of the corporations involved in such disposition are
21 located. The commission shall send a copy of all information obtained by it as to what, if any,
22 impact such sale, assignment, lease, transfer, merger, consolidation or other disposition will have
23 on the tax revenues of various political subdivisions to the county clerk of each county in which
24 any portion of a political subdivision which will be affected by such disposition is located.
25 Nothing in this subsection contained shall be construed to prevent the sale, assignment, lease or
26 other disposition by any corporation, person or public utility of a class designated in this
27 subsection of property which is not necessary or useful in the performance of its duties to the
28 public, and any sale of its property by such corporation, person or public utility shall be
29 conclusively presumed to have been of property which is not useful or necessary in the
30 performance of its duties to the public, as to any purchaser of such property in good faith for
31 value.

32 2. No such corporation shall directly or indirectly acquire the stock or bonds of any other
33 corporation incorporated for, or engaged in, the same or a similar business, or proposing to
34 operate or operating under a franchise from the same or any other municipality; neither shall any
35 street railroad corporation acquire the stock or bonds of any electrical corporation, unless, in
36 either case, authorized so to do by the commission. Save where stock shall be transferred or held
37 for the purpose of collateral security, no stock corporation of any description, domestic or
38 foreign, other than a gas corporation, electrical corporation, water corporation, sewer corporation
39 or street railroad corporation, shall, without the consent of the commission, purchase or acquire,
40 take or hold, more than ten percent of the total capital stock issued by any gas corporation,
41 electrical corporation, water corporation or sewer corporation organized or existing under or by
42 virtue of the laws of this state, except that a corporation now lawfully holding a majority of the
43 capital stock of any gas corporation, electrical corporation, water corporation or sewer
44 corporation may, with the consent of the commission, acquire and hold the remainder of the
45 capital stock of such gas corporation, electrical corporation, water corporation or sewer
46 corporation, or any portion thereof.

47 3. **No person, public utility, or other corporation shall, without the consent of the**
48 **commission, purchase or acquire, take, or hold fifty percent or more of the total capital**
49 **stock issued by any sewer or water corporation that regularly provides service to eight**
50 **thousand or fewer customers.**

51 4. Nothing herein contained shall be construed to prevent the holding of stock heretofore
52 lawfully acquired, or to prevent upon the surrender or exchange of said stock pursuant to a

53 reorganization plan, the purchase, acquisition, taking or holding of a proportionate amount of
54 stock of any new corporation organized to take over, at foreclosure or other sale, the property of
55 any corporation whose stock has been thus surrendered or exchanged. Every contract,
56 assignment, transfer or agreement for transfer of any stock by or through any person or
57 corporation to any corporation in violation of any provision of this chapter shall be void and of
58 no effect, and no such transfer or assignment shall be made upon the books of any such gas
59 corporation, electrical corporation, water corporation or sewer corporation or shall be recognized
60 as effective for any purpose.

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