

SECOND REGULAR SESSION

# HOUSE BILL NO. 1361

## 92ND GENERAL ASSEMBLY

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INTRODUCED BY REPRESENTATIVES HOBBS (Sponsor), KELLY (144),  
DETHROW AND TOWNLEY (Co-sponsors).

Read 1<sup>st</sup> time February 3, 2004, and copies ordered printed.

STEPHEN S. DAVIS, Chief Clerk

3504L.011

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### AN ACT

To repeal sections 393.715 and 393.760, RSMo, and to enact in lieu thereof two new sections relating to the joint municipal utility commission act.

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

Section A. Sections 393.715 and 393.760, RSMo, are repealed and two new sections  
2 enacted in lieu thereof, to be known as sections 393.715 and 393.760, to read as follows:

393.715. 1. The general powers of a commission to the extent provided in section  
2 393.710 shall include the power to:

3 (1) Plan, develop, acquire, construct, reconstruct, operate, manage, dispose of, participate  
4 in, maintain, repair, extend or improve one or more projects, either exclusively or jointly or by  
5 participation with electric cooperative associations, municipally owned or public utilities or  
6 acquire any interest in or any rights to capacity of a project, within or outside the state, and act  
7 as an agent, or designate one or more other persons participating in a project to act as its agent,  
8 in connection with the planning, acquisition, construction, operation, maintenance, repair,  
9 extension or improvement of such project;

10 (2) Acquire, sell, distribute and process fuels necessary to the production of electric  
11 power and energy; provided, however, the commission shall not have the power or authority to  
12 erect, own, use or maintain a transmission line which is parallel or generally parallel to another  
13 transmission line in place within a distance of two miles, which serves the same general area  
14 sought to be served by the commission unless the public service commission finds that it is not  
15 feasible to utilize the transmission line which is in place;

16 (3) Acquire by purchase or lease, construct, install, and operate reservoirs, pipelines,

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

17 wells, check dams, pumping stations, water purification plants, and other facilities for the  
18 production, wholesale distribution, and utilization of water and to own and hold such real and  
19 personal property as may be necessary to carry out the purposes of its organization; provided,  
20 however, that a commission shall not sell or distribute water, at retail or wholesale, within the  
21 certificated area of a water corporation which is subject to the jurisdiction of the public service  
22 commission unless the sale or distribution of water is within the boundaries of a public water  
23 supply district or municipality which is a contracting municipality in the commission and the  
24 commission has obtained the approval of the public service commission prior to commencing  
25 such said sale or distribution of water;

26 (4) Acquire by purchase or lease, construct, install, and operate lagoons, pipelines, wells,  
27 pumping stations, sewage treatment plants and other facilities for the treatment and  
28 transportation of sewage and to own and hold such real and personal property as may be  
29 necessary to carry out the purposes of its organization;

30 (5) Enter into operating, franchises, exchange, interchange, pooling, wheeling,  
31 transmission and other similar agreements with any person;

32 (6) Make and execute contracts and other instruments necessary or convenient to the  
33 exercise of the powers of the commission;

34 (7) Employ agents and employees;

35 (8) Contract with any person, within or outside the state, for the construction of any  
36 project or for any interest therein or any right to capacity thereof, without advertising for bids,  
37 preparing final plans and specifications in advance of construction, or securing performance and  
38 payment of bonds, except to the extent and on such terms as its board of directors shall  
39 determine. Any contract entered into pursuant to this subdivision shall contain a provision that  
40 the requirements of sections 290.210 to 290.340, RSMo, shall apply;

41 (9) Purchase, sell, exchange, transmit, treat, dispose or distribute water, sewage, gas, heat  
42 or electric power and energy, or any by-product resulting therefrom, within and outside the state,  
43 in such amounts as it shall determine to be necessary and appropriate to make the most effective  
44 use of its powers and to meet its responsibilities, and to enter into agreements with any person  
45 with respect to such purchase, sale, exchange, treatment, disposal or transmission, on such terms  
46 and for such period of time as its board of directors shall determine. A commission may not sell  
47 or distribute water, gas, heat or power and energy, or sell sewage service at retail to ultimate  
48 customers outside the boundary limits of its contracting municipalities except pursuant to  
49 subsection 2 or 3 of this section;

50 (10) Acquire, own, hold, use, lease, as lessor or lessee, sell or otherwise dispose of,  
51 mortgage, pledge, or grant a security interest in any real or personal property, commodity or  
52 service or interest therein;

53 (11) Exercise the powers of eminent domain for public use as provided in chapter 523,  
54 RSMo, except that the power of eminent domain shall not be exercised against any electric  
55 cooperative association, municipally owned or public utility;

56 (12) Incur debts, liabilities or obligations including the issuance of bonds [pursuant to  
57 the authority granted in section 27 of article VI of the Missouri Constitution] **as provided in**  
58 **subsection 6 of section 393.760;**

59 (13) Sue and be sued in its own name;

60 (14) Have and use a corporate seal;

61 (15) Fix, maintain and revise fees, rates, rents and charges for functions, services,  
62 facilities or commodities provided by the commission;

63 (16) Make, and from time to time, amend and repeal, bylaws, rules and regulations not  
64 inconsistent with this section to carry into effect the powers and purposes of the commission;

65 (17) Notwithstanding the provisions of any other law, invest any funds held in reserve  
66 or sinking funds, or any funds not required for immediate disbursement, including the proceeds  
67 from the sale of any bonds, in such obligations, securities and other investments as the  
68 commission deems proper;

69 (18) Join organizations, membership in which is deemed by the board of directors to be  
70 beneficial to accomplishment of the commission's purposes;

71 (19) Exercise any other powers which are deemed necessary and convenient by the  
72 commission to effectuate the purposes of the commission; and

73 (20) Do and perform any acts and things authorized by this section under, through or by  
74 means of an agent or by contracts with any person.

75 2. When a municipality purchases a privately owned water utility and a commission is  
76 created pursuant to sections 393.700 to 393.770, the commission may continue to serve those  
77 locations previously receiving water from the private utility even though the location receives  
78 such service outside the geographical area of the municipalities forming the commission. New  
79 water service may be provided in such areas if the site to receive such service is located within  
80 one-fourth of a mile from a site serviced by the privately owned water utility.

81 3. When a commission created by any of the contracting entities listed in subdivision (4)  
82 of section 393.705 becomes a successor to any nonprofit water corporation, nonprofit sewer  
83 corporation or other nonprofit agency or entity organized to provide water or sewer service, the  
84 commission may continue to serve, as well as provide new service to, those locations and areas  
85 previously receiving water or sewer service from such nonprofit entity, regardless of whether or  
86 not such location receives such service outside the geographical service area of the contracting  
87 entities forming such commission; provided that such locations and areas previously receiving  
88 water and sewer service from such nonprofit entity are not located within:

89 (1) Any county of the first classification with a population of more than six hundred  
90 thousand and less than nine hundred thousand;

91 (2) The boundaries of any sewer district established pursuant to article VI, section 30(a)  
92 of the Missouri Constitution; or

93 (3) The certificated area of a water or sewer corporation that is subject to the jurisdiction  
94 of the public service commission.

393.760. 1. The commission shall, in accordance with the provisions of chapter 115,  
2 RSMo, order an election to be held whereby the qualified electors in each contracting  
3 municipality participating in the project shall approve or disapprove the issuance of the bonds  
4 as provided for in the resolution of the commission. The commission may not order such an  
5 election until it has engaged and received a report from an independent consulting engineer as  
6 defined in section 327.181, RSMo, for the purpose of determining the economic and engineering  
7 feasibility of any proposed project the costs of which are to be financed through the issuance of  
8 bonds. The report of the consulting engineer shall be provided to and approved by the legislative  
9 body and executive of each contracting municipality participating in the project and such report  
10 shall be open to public inspection and shall be the subject of a public hearing in each  
11 municipality participating in the project. Notice of the time and place of each such hearing shall  
12 be published in a daily newspaper of general circulation within each municipality. Interested  
13 parties may appear and fully participate in such hearings.

14 2. The commission shall notify the election authority or authorities responsible for  
15 conducting elections within each contracting municipality participating in the project in  
16 accordance with chapter 115, RSMo.

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

18 OFFICIAL BALLOT

19 Should a resolution to approve the issuance of revenue bonds by the joint municipal  
20 (water) (sewer) (power) (gas) commission in an amount not to exceed \$..... for the purpose  
21 of ..... be approved?

22  Yes

No

23  
24 If you are in favor of the resolution, place an "X" in the box opposite "Yes". If you are opposed  
25 to the question, place an "X" in the box opposite "No".

26 4. If the resolution to issue the bonds is approved by at least a majority of the qualified  
27 electors voting thereon in each of the contracting municipalities participating in the project, the  
28 commission shall declare the result of the election and cause the bonds to be issued.

29 5. The municipalities participating in the project shall bear all expenses associated with  
30 the elections in such contracting municipalities.

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