

As Introduced

**134th General Assembly
Regular Session
2021-2022**

H. B. No. 364

Representative Patton



A BILL

To amend section 4909.172 of the Revised Code to 1
make changes to the application process for the 2
waterworks infrastructure improvement surcharge. 3

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:

Section 1. That section 4909.172 of the Revised Code be 4
amended to read as follows: 5

Sec. 4909.172. (A) A waterworks company, or a sewage 6
disposal system company, that is a public utility may file an 7
application with the public utilities commission for approval to 8
collect an infrastructure improvement surcharge, determined in 9
accordance with this section, from customers located in the 10
company's affected service areas and subject to affected 11
schedules filed by the company under section 4905.32 of the 12
Revised Code. The application shall be in such form and contain 13
such information as the commission prescribes. At the time of 14
filing, the company shall serve a copy of the application upon 15
the chief executive of each municipal corporation, the board of 16
township trustees of each township, and the board of county 17
commissioners of each county in which affected customers are 18
located. A company for which an infrastructure improvement 19

surcharge is authorized under this section may file an 20
application for another such surcharge not sooner than twelve 21
months after the filing date of its most recent infrastructure 22
improvement surcharge application. 23

(B) The commission shall provide an opportunity for the 24
filing of comments on an application filed under division (A) of 25
this section. After considering those comments, the commission 26
may authorize an infrastructure improvement surcharge for the 27
company that is just and reasonable and is sufficient, but does 28
not exceed, the revenue requirement necessary to do both of the 29
following: 30

(1) Cover such infrastructure plant costs of the company 31
as are described in division (C) of this section, incurred after 32
March 1, 2003, and before the date of filing, and not already 33
reflected in the affected schedules filed by the company under 34
section 4905.32 of the Revised Code; 35

(2) Provide a fair and reasonable rate of return on the 36
filing date valuation of that particular infrastructure plant. 37

Each infrastructure improvement surcharge chargeable to 38
each affected customer class within any single tariff of the 39
company shall not exceed three per cent, for a sewage disposal 40
system company, and four and ~~one-quarter~~ one-quarter per cent, 41
for a waterworks company, of the rates and charges applicable to 42
the class and for the tariff in effect on the date the 43
application was filed and, as to the allowed percentage 44
increase, shall be uniform for each such class. The commission 45
shall not authorize a company to have more than three 46
infrastructure improvement surcharges for any single company 47
tariff in effect at any time. 48

Additionally, the commission shall not authorize an 49
infrastructure improvement surcharge under this section if it 50
determines that the surcharge causes the company to earn an 51
excessive rate of return on its valuation under section 4909.15 52
of the Revised Code. 53

(C) For purposes of this section, a company's costs of 54
infrastructure plant may include depreciation expenses. Such 55
infrastructure plant may consist of the following capital 56
improvements that the commission determines are prudent and used 57
and useful in rendering public utility service and that are 58
properly classified in the uniform system of accounts adopted by 59
the National Association of Regulatory Utility Commissioners as 60
identified in rule 4901:1-15-32 of the Administrative Code: 61

(1) In the case of a waterworks company, replacement of an 62
existing plant ~~including chemical feed systems, filters, pumps,~~ 63
~~motors, plant generators, meters, service lines, hydrants,~~ 64
~~mains, and valves,~~ included in accounts 323, 324, 325, 326, 327, 65
328, 332, 342, 343, 345, 346, 347, and 348, as well as main 66
extensions that eliminate dead ends to resolve documented water 67
supply problems presenting significant health or safety issues 68
to then existing customers, and main cleaning or relining; 69

(2) In the case of a sewage disposal system company, 70
replacement of an existing ~~infrastructure including chemical~~ 71
~~feed systems, filters, pumps, motors, sludge handling equipment,~~ 72
~~plant generators, mains and lift stations,~~ plant included in 73
accounts 352, 352.1, 352.2, 353, 354, 355, 356, 362, 363, 364, 74
365, 372, 373, 374, and 375, as well as main extensions that 75
resolve documented sewage disposal problems presenting 76
significant health or safety issues to then existing customers, 77
and main cleaning, inflow and infiltration elimination, or 78

relining; 79

(3) Unreimbursed capital expenditures made by the 80
waterworks company, or the sewage disposal system company, for 81
waterworks, or sewage disposal, facility relocation required by 82
a governmental entity due to a street or highway project; 83

(4) Capital expenditures made by the waterworks company or 84
sewage disposal system company to comply with any consent 85
decree, final order, or final rule of the United States 86
environmental protection agency or the Ohio environmental 87
protection agency. 88

(5) Minimum land or land rights acquired by the company as 89
necessary for any service line, equipment, or facility described 90
in divisions (C) (1) to ~~(3)~~ (4) of this section. 91

As used in divisions (C) (1) and (2) of this section, 92
"replacement of an existing plant" includes replacements that 93
result in an upgrade or improvement of the previously existing 94
plant, provided that the replacement plant is prudent, qualifies 95
for recovery under this section, and performs the same or 96
similar function or purpose as it did prior to the replacement. 97

(D) (1) If the commission fails to issue a final order 98
within one hundred eighty days after the date the application is 99
filed under this section, a surcharge not to exceed the proposed 100
surcharge shall go into effect upon the filing of the revised 101
affected rate schedules by the waterworks or sewage disposal 102
company, subject to refund of amounts collected that exceed 103
those authorized by the final order of the commission. 104

(2) All refunds shall include interest at the rate started 105
in section 1343.03 of the Revised Code and shall be accomplished 106
in a manner as prescribed by the commission in its final order. 107

The commission may require an undertaking to secure the refund 108
under this division if it finds it is warranted by the financial 109
condition of the waterworks or sewage disposal system company. 110

(3) This division shall only apply to applications filed 111
by a waterworks or sewage disposal system company that has 112
annual operating revenues of two hundred fifty thousand dollars 113
or more. 114

(E) During the period that an authorized infrastructure 115
improvement surcharge is in effect, the commission, by order and 116
on its own motion or upon good cause shown, may reduce the 117
amount of or terminate an infrastructure improvement surcharge 118
if it determines that the surcharge causes the company to earn 119
an excessive rate of return on its valuation under section 120
4909.15 of the Revised Code. 121

~~(E)~~ (F) An order issued by the commission deciding an 122
application by a waterworks company or a sewage disposal system 123
company for an increase in rates and charges pursuant to an 124
application filed by the company under section 4909.18 of the 125
Revised Code shall provide for the termination, as of the 126
earlier of the effective date of the increase or the date 127
specified in division (F) of this section, of any infrastructure 128
improvement surcharges of the company authorized under this 129
section. 130

~~(F)~~ (G) All surcharges authorized under this section shall 131
terminate by operation of law not later than December 31, 132
~~2025~~2036. 133

~~(G)~~ (H) The company shall provide notice of any 134
infrastructure improvement surcharge authorized under this 135
section to each affected customer with or on the customer's 136

first bill containing the surcharge.	137
(H) <u>(I)</u> The commission may adopt such rules as it	138
considers necessary to carry out this section.	139
Section 2. That existing section 4909.172 of the Revised	140
Code is hereby repealed.	141