

FIRST REGULAR SESSION

HOUSE BILL NO. 923

91ST GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVES WIGGINS, RELFORD, HEGEMAN, MAYS (50),
GRIESHEIMER (Co-sponsors) AND RANSBALL.

Read 1st time March 5, 2001, and 1000 copies ordered printed.

TED WEDEL, Chief Clerk

1856L.021

AN ACT

To repeal sections 247.030, 247.031, 247.085, 247.160, 247.170, 247.215 and 247.224, RSMo 2000, relating to public water supply districts, and to enact in lieu thereof six new sections relating to the same subject.

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

Section A. Sections 247.030, 247.031, 247.085, 247.160, 247.170, 247.215 and 247.224, RSMo 2000, are repealed and six new sections enacted in lieu thereof, to be known as sections 247.030, 247.031, 247.085, 247.160, 247.170 and 247.215, to read as follows:

247.030. 1. Territory that may be included in a district sought to be incorporated or enlarged may be wholly within one or in more than one county, may take in school districts or parts thereof, and cities that do not have a waterworks system or cities whose governing body has by a majority vote requested that the city or part thereof be included within the boundaries of a public water supply district. For the purpose of this section, "city" means any city, town or village. The territory, however, shall be contiguous, and proceedings to incorporate shall be in the circuit court of the county in which the largest acreage is located. No two districts shall overlap.

2. Any two or more contiguous districts or any city and a contiguous district may, if there are no outstanding general obligation bonds relating to drinking water supply projects in either entity, by a majority vote of the governing body of each entity, provide for territory located in one entity to be annexed and served by the entity contiguous to the annexed territory. Notice of the proposed annexation shall be filed with the circuit court that originally issued the decree of incorporation for a district which is detaching territory through the proposed annexation or with

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

15 the circuit court that originally issued the decree of incorporation for a district which is including
16 a city or part thereof through the proposed annexation. The court shall set a date for a hearing
17 on the proposed annexation and shall cause notice to be published in the same manner as for the
18 filing of the original petition for incorporation; except that publication of notice shall not be
19 required if a majority of the landowners in the territory proposed to be annexed consent in
20 writing, and if notice of the hearing is posted in three public places within the territory proposed
21 to be annexed at least seven days before the date of the hearing. If publication of the notice is
22 not required pursuant to this section, the court shall only approve the proposed annexation if
23 there is sworn testimony by at least five landowners in the area of the proposed annexation, or
24 a majority of the landowners, if there are fewer than ten landowners in the area. If the court, after
25 the hearing, finds that the proposed annexation would not be in the public interest, it shall order
26 that the annexation not be allowed. If the court finds the proposed annexation to be in the public
27 interest, it shall approve the annexation and the territory shall be detached from the one entity
28 and annexed to the other. After the annexation is approved, the circuit court in which each
29 district involved in the proceedings was incorporated shall amend the decree of incorporation for
30 each district to reflect the change in the boundaries as a result of the annexation and to redivide
31 each district into five subdistricts, fixing their boundary lines so that each of the five subdistricts
32 have approximately the same area. A certified copy of the amended decree showing the
33 boundary change and the new subdistricts shall be filed in the office of the recorder of deeds and
34 in the office of the county clerk in each county having territory in the district and in the office
35 of the secretary of state of the state of Missouri.

36 3. The boundaries of any district may be extended or enlarged from time to time upon
37 the filing, with the clerk of the circuit court having jurisdiction, of a petition by either:

38 (1) The board of directors of the district and five or more voters within the territory
39 proposed to be annexed by the district; or

40 (2) **The board of directors of the district and** a majority of the landowners within the
41 territory proposed to be annexed to the district.

42

43 **If the petition is filed by the board of directors of the district and five or more voters within**
44 **the territory proposed to be annexed by the district, the same proceedings shall be followed**
45 **as are provided in section 247.040 for the filing of a petition for the organization of the**
46 **district. Upon entry of a final order declaring the court's decree of annexation to be final**
47 **and conclusive, the court shall modify or rearrange the boundary lines of the subdistricts**
48 **as may be necessary or advisable.** If the petition is filed by **the board of directors of the**
49 **district and** a majority of the landowners within the territory proposed to be annexed, the
50 publication of notice shall not be required, provided notice is posted in three public places within

51 the territory proposed to be annexed at least seven days before the date of the hearing and
52 provided that there is sworn testimony by at least five landowners in the territory proposed to be
53 annexed, or a majority of the landowners if the total landowners in the area are fewer than ten.
54 **If the court finds that the annexation of such territory would be in the public interest, it**
55 **shall enter its order granting such annexation.** Upon the entry of [a final] **such** order
56 [declaring the court's decree of annexation to be final and conclusive], the court shall modify or
57 rearrange the boundary lines of the subdistricts as may be necessary or advisable.

58 **4.** The costs incurred in the enlargement or extension of the district shall be taxed to the
59 district, if the district be enlarged or extended, otherwise against the petitioners; provided,
60 however, that no costs shall be taxed to the directors of the district. **A certified copy of the**
61 **court's final order shall be filed in the office of the recorder, in the office of the county**
62 **clerk in each county having territory in the district and in the office of the secretary of**
63 **state.**

64 [4.] **5.** Should any voter who owns real estate that abuts upon a district once formed
65 desire to have such real estate incorporated in the district, the voter shall first petition the board
66 of directors thereof for its approval. If such approval be granted, the clerk of the board shall
67 endorse a certificate of the fact of approval by the board upon the petition. The petition so
68 endorsed shall be filed with the clerk of the circuit court in which the district is incorporated.
69 It shall then be the duty of the court to amend the boundaries of such district by a decree
70 incorporating the real estate in the same. A certified copy of this decree including the real estate
71 in the district shall then be filed in the office of the recorder and in the office of the county clerk
72 [of the] **in each** county [in which the real estate is located] **having territory in the district,** and
73 in the office of the secretary of state. The costs of this proceeding shall be borne by the
74 petitioning property owner.

247.031. 1. Territory included in a district that is not being served by such district may
2 be detached from such district provided that there are no outstanding general obligation or
3 special obligation bonds and no contractual obligations of greater than twenty-five thousand
4 dollars for debt that pertains to infrastructure, fixed assets or obligations for the purchase of
5 water **within the area sought to be detached.** If any such bonds or debt is outstanding, and the
6 written consent of the holders of such bonds or the creditors to such debt is obtained, then such
7 territory may be detached in spite of the existence of such bonds or debt, except such consent
8 shall not be required for special obligation bonds **or debt** if the district has no water lines or
9 other facilities located within any of the territory detached. Detachment may be made by the
10 filing of a petition with the circuit court in which the district was incorporated. The petition shall
11 contain a description of the tract to be detached and a statement that the detachment is in the best
12 interest of the district or the inhabitants and property owners of the territory to be detached,

13 together with the facts supporting such allegation. The petition may be submitted by the district
14 acting through its board of directors, in which case the petition shall be signed by a majority of
15 the board of directors of the district. The petition may also be submitted by voters residing in
16 the territory sought to be detached. If there are more than ten voters in such territory, the petition
17 shall be signed by five or more voters residing in the territory; if there are less than ten voters
18 residing in such territory, the petition shall be signed by fifty percent or more of the voters
19 residing in the territory. In the event there are no voters living within such territory proposed to
20 be detached, then the petition may be submitted by owners of more than fifty percent of the land
21 in the territory proposed to be detached, in which case said petition shall be signed by the owners
22 so submitting the petition.

23 2. Such petition shall be filed in the circuit court having jurisdiction and the court shall
24 set a date for hearing on the proposed detachment and the clerk shall give notice thereof in three
25 consecutive issues of a weekly newspaper in each county in which any portion of the territory
26 proposed to be detached lies, or in lieu thereof, in twenty consecutive issues of a daily newspaper
27 in each county in which any portion of the tract proposed to be detached lies; the last insertion
28 of the notice to be made not less than seven nor more than twenty-one days before the hearing.
29 Such notice shall be substantially as follows: IN THE CIRCUIT COURT OF COUNTY,
30 MISSOURI NOTICE OF THE FILING OF A PETITION FOR TERRITORIAL
31 DETACHMENT FROM PUBLIC WATER SUPPLY DISTRICT NO. OF
32 COUNTY, MISSOURI.

33 To all voters and landowners of land within the boundaries of the above-described
34 district:

35 You are hereby notified:

36 1. That a petition has been filed in this court for the detachment of the following tracts
37 of land from the above-named public water supply district, as provided by law: (Describe tracts
38 of land).

39 2. That a hearing on said petition will be held before this court on the day of,
40 20 ..., at,m.

41 3. Exceptions or objections to the detachment of said tracts from said public water
42 supply district may be made by any voter or landowner of land within the district from which
43 territory is sought to be detached, provided such exceptions or objections are in writing not less
44 than five days prior to the date set for hearing on the petition.

45 4. The names and addresses of the attorneys for the petitioner are:
46 Clerk of the Circuit Court of County, Missouri

47 3. The court, for good cause shown, may continue the case or the hearing thereon from
48 time to time until final disposition thereof.

49 4. Exceptions or objections to the detachment of such territory may be made by any voter
50 or landowner within the boundaries of the district, including the territory to be detached. The
51 exceptions or objections shall be in writing and shall specify the grounds upon which they are
52 made and shall be filed not later than five days before the date set for hearing the petition. If any
53 such exceptions or objections are filed, the court shall take them into consideration when
54 considering the petition for detachment and the evidence in support of detachment. If the court
55 finds that the detachment will be in the best interest of the district and the inhabitants and
56 landowners of the area to be detached will not be adversely affected or if the court finds that the
57 detachment will be in the best interest of the inhabitants and landowners of the territory to be
58 detached and will not adversely affect the remainder of the district, it shall approve the
59 detachment and grant the petition.

60 5. If the court approves the detachment, it shall make its order detaching the territory
61 described in the petition from the remainder of the district, or in the event it shall find that only
62 a portion of said territory should be detached, the court shall order such portion detached from
63 the district. The court shall also make any changes in subdistrict boundary lines it deems
64 necessary to meet the requirements of sections 247.010 to 247.220. Any subdistrict line changes
65 shall not become effective until the next annual election of a member of the board of directors.

66 6. A certified copy of the court's order shall be filed in the office of the recorder and in
67 the office of the county clerk in each county in which any of the territory of the district prior to
68 detachment is located, and in the office of the secretary of state. Costs of the proceeding shall
69 be borne by the petitioner or petitioners.

247.085. 1. The board of directors of any public water supply district which is
2 dependent upon purchases of water to supply its needs shall have power to sell and convey part
3 or all of the property of the district to any city, owning and operating a waterworks system, in
4 consideration whereof the city shall obligate itself to pay or assume the payment of all
5 outstanding bond obligations of the district, and to provide reasonable and adequate water
6 service and furnish water ample in quantity for all needful purposes, and pure and wholesome
7 in quality, to the inhabitants of the territory lying within the district, during such period of time
8 and under such terms and conditions as may be agreed upon by the city and the board of directors
9 of the district; provided, however, that no action shall be taken as provided herein until said city
10 and public water supply district shall cause a printed notice of their intention to act under this
11 section to be published in a manner prescribed for by law in a newspaper having a general
12 circulation in said city and public water supply district, and a statement of the time and manner
13 of said publication shall be recited in any agreement or contract executed hereunder.

14 2. Thereafter the board of directors may sell and convey any remaining property of the
15 district and after payment of the debts of the district, other than bond obligations, the board of

16 directors may use the funds of the district for the purpose of providing fire protection or for any
17 other public purpose which in the opinion of the board will be beneficial to the inhabitants of the
18 district, **or in the event that the board of directors sells the entire water system of the**
19 **district to any city as provided in this section, and the district has not had general**
20 **obligation bonds outstanding within five years preceding the date of such sale, the board**
21 **of directors may distribute to the water users of the district as of the date of the sale of the**
22 **water system of the district to such city all or any portion of such funds on a pro rata basis.**
23 **For the purposes of this subsection, any purchaser of water from such district for resale**
24 **and any purchaser of water who has not purchased water from the district continuously**
25 **for twelve consecutive months immediately preceding the date of such sale shall not be**
26 **considered a water user and shall not receive any payment pursuant to this subsection.**

247.160. 1. Whenever all or any part of the territory of any public water supply district
2 organized [under] **pursuant to** sections 247.010 to 247.220 is or has been included by
3 annexation within the corporate limits of a municipality, the board of directors of any such
4 district shall have the power to contract with such municipality for operating the waterworks
5 system within such annexed area, or the board of directors, may, subject to the provisions of
6 sections 247.160 and 247.170, lease, contract to sell, sell or convey, any or all of its water mains,
7 plant or equipment located within such annexed area to such municipality and such contract shall
8 also provide for the detachment and exclusion from such public water supply district of that part
9 thereof located within the corporate limits of such city; provided, that in case of sale or
10 conveyance, all bonds of the district, whether general obligation bonds constituting a lien on the
11 property located within the district, or special obligation or revenue bonds constituting a lien on
12 the income and revenues arising from the operation of the water system:

- 13 (1) Are paid in full, or
14 (2) A sum sufficient to pay all of such bonds together with interest accrued or to accrue
15 thereon, together with other items of expense provided in such bonds, is deposited with the fiscal
16 agent named in the bonds for the purpose of full payment, or
17 (3) Such city has entered into a firm commitment to pay in lump sum or installments not
18 less than that proportion of the sum of all existing liquidated obligations and of all unpaid
19 revenue bonds, with interest thereon to date, of such public water supply district, as the assessed
20 valuation of the real and tangible personal property within the area annexed bears to the assessed
21 valuation of all the real and tangible personal property within the entire area of such district,
22 according to the official county assessment of such property as to December thirty-first of the
23 calendar year next preceding, or
24 (4) Consent in writing is obtained from the holders of all such bonds.
25 2. In any such case in which the board of directors by agreement, leases, contracts to sell,

26 sells or conveys the property of the district within the annexed area to such a municipality, an
27 application shall be made by one of the contracting parties to the circuit court originally
28 incorporating such district, which application shall set forth a description of the annexed area,
29 that part thereof sought to be detached and excluded, a copy of the agreement entered into by the
30 parties, the facts concerning bondholders and their rights, and requesting an order of the court
31 approving or disapproving such contract.

32 3. Upon the filing of such application, the court shall set a time for the hearing thereof
33 and shall order a public notice setting forth the nature of the application, the annexed area
34 affected and sought to be detached and excluded, a description of the property within the
35 annexed area leased, contracted to be sold, sold or conveyed, and the time and place of such
36 hearing, to be published for three weeks consecutively, in a newspaper published in the county
37 in which the application is pending, the last publication to be not more than five days before the
38 date set for hearing.

39 4. If the court finds that the agreement protects the bondholders' rights and provides for
40 the rendering of necessary water service in the territory embracing the district, then such
41 agreement shall be fully effective upon approval by the court. Such decree shall also thereupon
42 vest in said city the absolute title, free and clear of all liens or encumbrances of every kind and
43 character, to all tangible real and personal property of such public water supply district located
44 within the part of such district situated within the corporate limits of such city, with full power
45 in such city to use and dispose of such tangible real and personal property as it deems best in the
46 public interest.

47 **5. In any case in which the board of directors of any public water supply district**
48 **and a municipality cannot agree upon the fair and reasonable price to be paid for the lease,**
49 **sale, or conveyance to the municipality of the physical property of such public water supply**
50 **district within the territory included by annexation within corporate limits of the**
51 **municipality, or if either party refuses to negotiate for the lease, sale, or conveyance of such**
52 **property upon the request of the other, either party may, within ninety days after the**
53 **annexation of such territory, request that the public service commission determine the fair**
54 **and reasonable value of such property for such lease, sale, or conveyance. The public**
55 **service commission shall make such determination within sixty days after receipt of such**
56 **request and any information necessary to make such determination. No action by the**
57 **public service commission pursuant to this section shall be considered as regulation of the**
58 **municipality or the public water supply district.**

247.170. 1. Whenever any city owning a waterworks or water supply system extends
2 its corporate limits to include any part of the area in a public water supply district, and the city
3 and the board of directors of the district are unable to agree upon a service, lease or sale

4 agreement, or are unable to proceed [under] **pursuant to** section 247.160, then upon the
5 expiration of ninety days after the effective date of the extension of the city limits, that part of
6 the area of the district included within the corporate limits of the city may be detached and
7 excluded from the district in the following manner:

8 (1) A petition to detach and exclude that part of the public water supply district lying
9 within the corporate limits of the city as such limits have been extended, signed by not less than
10 twenty-five voters within the water supply district, shall be filed in the circuit court of the county
11 in which the district was originally organized.

12 (2) The court, being satisfied as to the sufficiency of the petition, shall call a special
13 election of the voters of the district at which election the proposal to detach and exclude the part
14 of the district lying within the corporate limits of the city shall be submitted to the voters in the
15 entire district for a vote thereon. The election shall be conducted within the district by the
16 election authority.

17 (3) The ballot shall briefly state the question to be voted on.

18 (4) In order to approve the detachment and exclusion of any part of the area in a public
19 water supply district, the proposal shall require the approval of not less than a majority of the
20 voters voting thereon.

21 (5) The election authorities shall thereafter promptly certify the result to the circuit court.
22 The court, acting as a court of equity, shall thereupon without delay enter a decree detaching and
23 excluding the area in question located within the corporate limits of the city from the public
24 water supply district; except that before the decree detaching and excluding the area becomes
25 final or effective, the city shall show to the court that it has assumed and agreed to pay in lump
26 sum or in installments not less than that proportion of the sum of all existing liquidated general
27 obligations and of all unpaid revenue bonds and interest thereon to date, of the water supply
28 district as the assessed valuation of the real and tangible personal property within the area sought
29 to be detached and excluded bears to the assessed valuation of all of the real and tangible
30 personal property within the entire area of the district, according to the official county assessment
31 of property as of December thirty-first of the calendar year next preceding the date of the
32 election, and in addition thereto that the city has assumed and agreed to assume or pay in a lump
33 sum all contractual obligations of the water district that are greater than twenty-five thousand
34 dollars for debt that pertains to infrastructure, fixed assets or obligations for the purchase of
35 water **within the area sought to be detached and excluded**, and to pay the court costs.

36 (6) The decree shall thereupon vest in the city the absolute title, free and clear of all liens
37 or encumbrances of every kind and character, to all tangible real and personal property of the
38 public water supply district located within the part of the district situated within the corporate
39 limits of the city with full power in the city to use and dispose of the tangible real and personal

40 property as it deems best in the public interest.

41 (7) If the proposal fails to receive the approval of the voters the question may be again
42 presented by another petition and again voted on, but not sooner than six months.

43 (8) Any and all sums paid out by the city under this section, other than the costs of the
44 election, shall be administered by the circuit court for the benefit of the holders of the then
45 existing and outstanding bonds of the district, and the remainder of such sums, if any, shall be
46 delivered to the district to be expended in the operation, maintenance and improvement of its
47 water distribution system.

48 2. Upon the effective date of any final order detaching and excluding any part of the area
49 of any public water supply district, or leasing, selling or conveying any of the water mains, plant
50 or equipment therein, the circuit court may, in the public interest, change the boundaries of the
51 public water supply district and again divide or redive the district into subdistricts for the
52 election of directors in conformity with the provisions of section 247.040, without further
53 petition being filed with the court so to do.

247.215. 1. The board of directors of any public water supply district which is
2 dependent upon purchases of water to supply its needs may sell and convey part or all of its water
3 mains, plant, real estate, or equipment to any water corporation as defined in section 386.020,
4 RSMo, if all bonds of the district, whether general obligation bonds constituting a lien on the
5 property within the district or special obligation or revenue bonds constituting a lien on the
6 income and revenues arising from the operation of the water system:

7 (1) Are to be paid in full, or

8 (2) A sum sufficient to pay all of such bonds together with interest accrued or to accrue
9 thereon, together with all other items of expense incident to the payment of such bonds, shall be
10 set aside from the proceeds of said sale and deposited with the fiscal agent named in the bonds
11 for the purpose of full payment.

12 2. After the board of directors of any public water supply district has entered into a
13 contract to sell part or all of its water mains, plant, real estate or equipment, pursuant to this
14 section, an application shall be made by said board of directors to the circuit court which
15 originally incorporated the district, which application shall set forth a copy of the contract
16 entered into by the parties, and the facts concerning the bondholders and their rights, and
17 requesting an order of the court approving or disapproving the contract.

18 3. Upon the filing of the application, the court shall set a time for the hearing thereof and
19 shall order a public notice setting forth the nature of the application, a description of the property
20 to be sold, and the time and place for the hearing, to be published for three weeks consecutively,
21 in a newspaper of general circulation in the county in which the application is pending, the last
22 publication to be not more than five days before the date set for the hearing.

23 4. If the court finds that the contract provides for the sale of all of the mains, plants, real
24 estate and equipment of the district and protects the bondholders' rights, and also provides for
25 the rendering of the necessary water service in the territory embracing the district, and is in the
26 best interest of the residents and property owners of the district, it shall, by its decree, approve
27 the contract and order dissolution of the district, provided that such dissolution is assented to by
28 a two-thirds majority of the voters of the district, voting on the question and provided further,
29 that the dissolution of the district shall not become final until after all its debts have been paid
30 and the disposition of funds of the district has been fully carried out as hereinafter provided to
31 the satisfaction of the court, after which a final decree may be entered.

32 **5. If such water supply district has had general obligation bonds outstanding within**
33 **five years preceding the date of assent by a two-thirds majority of the voters of the district**
34 **approving the dissolution of the district,** such water supply district shall not be finally
35 dissolved, upon the sale of all of its assets, until final liquidation thereof and until the trustees
36 of the district have first paid to the collector of the county, or counties, in which the district is
37 located all of its remaining funds which shall be applied pro rata toward the payment and
38 satisfaction of the taxes of the residents and property owners of the district on their respective
39 personal and real property tax bills for the next ensuing year or years. In the event that the sum
40 of money so paid to the collector would amount to less than the equivalent of one cent reduction
41 in the tax rate and thus impose upon the collector a cost burden in excess of the money so paid,
42 then and in that event said funds shall be paid over to the treasurer of the various school districts
43 having real estate within the said water supply district in the ratio that the assessed valuation of
44 such school district bears to the whole assessed valuation of the water supply district.

45 **6. If such water supply district has not had general obligation bonds outstanding**
46 **within five years preceding the date of assent by a two-thirds majority of the voters of the**
47 **district approving the dissolution of the district, such water supply district shall not be**
48 **finally dissolved, upon the sale of all of its assets, until final liquidation thereof and until**
49 **the trustees of the district have first paid to the water users of the district as of the date of**
50 **such assent all of the remaining funds of the district on a pro rata basis. For the purposes**
51 **of this subsection, any purchaser of water from such district for resale and any purchaser**
52 **of water who has not purchased water from the district continuously for twelve consecutive**
53 **months immediately preceding the date of such assent shall not be considered a water user**
54 **and shall not receive any payment pursuant to this subsection.**

2 [247.224. Any person who resides within the boundary of a public water
3 supply district located in any county of the first classification with a population of
4 more than eighty thousand and less than eighty-three thousand inhabitants and who
5 is unable to receive services from such district due to the district's failure to provide
such services may elect to be removed from such district by sending a written and

6 signed request for removal via certified mail to the district. The district shall, upon
7 receipt of such request, remove such resident from the district. If the resident elects
8 to be removed from the district, the resident shall compensate the district for any
9 costs incurred by the district for such resident's removal from the district and for any
10 attempts by the district to provide service to such resident prior to the certified date
11 that the district received the request for removal.]