

FIRST REGULAR SESSION

# HOUSE BILL NO. 442

## 92ND GENERAL ASSEMBLY

---

INTRODUCED BY REPRESENTATIVES HOBBS, TOWNLEY, MUNZLINGER, QUINN (Co-sponsors),  
KING, WOOD AND DETHROW.

Read 1<sup>st</sup> time February 11, 2003, and copies ordered printed.

STEPHEN S. DAVIS, Chief Clerk

1567L.011

---

### AN ACT

To repeal sections 247.030, 247.160, and 247.170, RSMo, and to enact in lieu thereof three new sections relating to water districts.

---

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

Section A. Sections 247.030, 247.160, and 247.170, RSMo, are repealed and three new  
2 sections enacted in lieu thereof, to be known as sections 247.030, 247.160, and 247.170, to read  
3 as follows:

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

9 2. Any two or more contiguous districts or any city and a contiguous district may, if there  
10 are no outstanding general obligation bonds relating to drinking water supply projects in either  
11 entity, by a majority vote of the governing body of each entity, provide for territory located in  
12 one entity to be annexed and served by the entity contiguous to the annexed territory. Notice of  
13 the proposed annexation shall be filed with the circuit court that originally issued the decree of  
14 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. Matter in boldface type in the above law is new proposed language.**

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], **provided that, if all or part of a city is being acquired by a district,**  
29 **the requirements of section 88.770, RSMo, must be met by the city. In the event that the**  
30 **district or city from which territory is being detached has outstanding contractual**  
31 **liquidated obligations or unpaid revenue bonds for debt pertaining to its water system, the**  
32 **acquiring district or city shall show the court that it will pay or assume and agree to pay**  
33 **that proportion of the sum of all such existing contractual liquidated obligations and of all**  
34 **unpaid revenue bonds, with interest thereon to date, as the assessed valuation of the real**  
35 **and tangible personal property within the area annexed bears to the assessed valuation of**  
36 **all the real and tangible personal property of the entire district or city from which the**  
37 **annexed area is being acquired, unless the entities agree otherwise and the court finds that**  
38 **such agreement adequately protects the holders of such obligations and bonds. Upon the**  
39 **court finding that all of these requirements have been met, it shall order the territory to**  
40 **be attached to the annexing entity and detached from the other entity.** After the annexation  
41 is approved, the circuit court in which each district involved in the proceedings was incorporated  
42 shall amend the decree of incorporation for each district to reflect the change in the boundaries  
43 as a result of the annexation and redivide each district into five subdistricts, fixing their boundary  
44 lines so that each of the five subdistricts have approximately the same area. A certified copy of  
45 the amended decree showing the boundary change and the new subdistricts shall be filed in the  
46 office of the recorder of deeds and in the office of the county clerk in each county having  
47 territory in the district and in the office of the secretary of state of the state of Missouri.

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

50 (1) The board of directors of the district and five or more voters or landowners within

51 the territory proposed to be annexed by the district; or

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

54

55 If the petition is filed by the board of directors of the district and five or more voters or  
56 landowners within the territory proposed to be annexed by the district, the same proceedings  
57 shall be followed as are provided in section 247.040 for the filing of a petition for the  
58 organization of the district, except that no election shall be held. Upon entry of a final [order]  
59 **judgment** declaring the court's decree of annexation to be final and conclusive, the court shall  
60 modify or rearrange the boundary lines of the subdistricts as may be necessary or advisable. If  
61 the petition is filed by the board of directors of the district and a majority of the landowners  
62 within the territory proposed to be annexed, the publication of notice shall not be required,  
63 provided notice is posted in three public places within the territory proposed to be annexed at  
64 least seven days before the date of the hearing and provided that there is sworn testimony by at  
65 least five landowners in the territory proposed to be annexed, or a majority of the landowners if  
66 the total landowners in the area are fewer than ten. If the court finds that the annexation of such  
67 territory would be in the public interest, the court shall enter its order granting such annexation.  
68 Upon the entry of such order, the court shall modify or rearrange the boundary lines of the  
69 subdistricts as may be necessary or advisable. The costs incurred in the enlargement or extension  
70 of the district shall be taxed to the district, if the district be enlarged or extended, otherwise  
71 against the petitioners; provided, however, that no costs shall be taxed to the directors of the  
72 district. **A certified copy of the judgment showing the boundary change and the new**  
73 **subdistricts shall be filed in the office of the recorder of deeds, in the office of the county**  
74 **clerk in each county in which the district has territory, and in the office of the secretary of**  
75 **state.**

76 4. Should any landowner who owns real estate that abuts upon a district once formed  
77 desire to have such real estate incorporated in the district, the landowner shall first petition the  
78 board of directors thereof for its approval. If such approval be granted, the clerk of the board  
79 shall endorse a certificate of the fact of approval by the board upon the petition. The petition so  
80 endorsed shall be filed with the clerk of the circuit court in which the district is incorporated.  
81 It shall then be the duty of the court to amend the boundaries of such district by a decree  
82 incorporating the real estate in the same. **The court shall include the real estate in a**  
83 **subdistrict and make any changes in subdistrict boundary lines necessary to meet the**  
84 **requirements of sections 247.010 to 247.227.** A certified copy of this decree including the real  
85 estate in the district shall then be filed in the office of the recorder and in the office of the county  
86 clerk [of the] **in each** county in which the [real estate] **district** is located, and in the office of the

87 secretary of state. The costs of this proceeding shall be borne by the petitioning property owner.

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

14 (1) Are paid in full, or

15 (2) A sum sufficient to pay all **existing contractual liquidated obligations and all** of  
16 such bonds together with interest accrued or to accrue thereon, together with other items of  
17 expense provided in such bonds **and obligations**, is deposited with the fiscal agent named in the  
18 bonds for the purpose of full payment **of such bonds and any amount due to any holder of**  
19 **existing contractual liquidated obligations shall be paid to the holder thereof**, or

20 (3) Such city has entered into a firm commitment to pay in lump sum or installments not  
21 less than that proportion of the sum of all existing **contractual** liquidated obligations and of all  
22 unpaid revenue bonds, with interest thereon to date, of such public water supply district, as the  
23 assessed valuation of the real and tangible personal property within the area annexed bears to the  
24 assessed valuation of all the real and tangible personal property within the entire area of such  
25 district, according to the official county assessment of such property as [to] **of** December  
26 thirty-first of the calendar year next preceding, or

27 (4) Consent in writing is obtained from the holders of all such bonds **and existing**  
28 **contractual liquidated obligations**.

29 2. In any such case in which the board of directors by agreement, leases, contracts to sell,  
30 sells or conveys the property of the district within the annexed area to such a municipality, an  
31 application shall be made by one of the contracting parties to the circuit court originally  
32 incorporating such district, which application shall set forth a description of the annexed area,  
33 that part thereof sought to be detached and excluded, a copy of the agreement entered into by the  
34 parties, the facts concerning bondholders and their rights, and requesting an order of the court  
35 approving or disapproving such contract.

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

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

51           **5. When granting any final judgment detaching and excluding any part of the area**  
52 **of any public water supply district, the circuit court shall change the boundaries of the**  
53 **public water supply district and shall again divide or redivide the district into subdistricts**  
54 **for the election of directors if such is necessary for the subdistricts to be in conformity with**  
55 **sections 247.010 to 247.227, without further petition being filed with the court to do so.**

56           **6. A certified copy of the court's final judgment shall be filed in the office of the**  
57 **recorder of deeds, in the office of the county clerk in each county in which any of the**  
58 **territory of the district before detachment is located, and in the office of the secretary of**  
59 **state. The recording and filing fees shall be taxed as costs.**

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 section 247.160, then upon the expiration of ninety  
5 days after the effective date of the extension of the city limits, that part of the area of the district  
6 included within the corporate limits of the city may be detached and excluded from the district  
7 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] **judgment**  
23 detaching and excluding the area in question located within the corporate limits of the city from  
24 the public water supply district; except that before the [decree] **judgment** detaching and  
25 excluding the area becomes final or effective, the city shall show to the court that it has assumed  
26 and agreed to pay in lump sum or in installments not less than that proportion of the sum of all  
27 existing **contractual** liquidated [general] obligations and of all unpaid revenue bonds and  
28 interest thereon to date, of the water supply district as the assessed valuation of the real and  
29 tangible personal property within the area sought to be detached and excluded bears to the  
30 assessed valuation of all of the real and tangible personal property within the entire area of the  
31 district, according to the official county assessment of property as of December thirty-first of the  
32 calendar year next preceding the date of the election, and in addition thereto that the city has  
33 assumed and agreed to assume or pay in a lump sum all contractual obligations of the water  
34 district that are greater than twenty-five thousand dollars for debt that pertains to infrastructure,  
35 fixed assets or obligations for the purchase of water, and to pay the court costs.

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

49 part of the area of any public water supply district, or leasing, selling or conveying any of the  
50 water mains, plant or equipment therein, the circuit court [may, in the public interest,] **shall**  
51 change the boundaries of the public water supply district and **may** again divide or redivide the  
52 district into subdistricts for the election of directors in conformity with [the provisions of section  
53 247.040] **sections 247.010 to 247.227**, without further petition being filed with the court so to  
54 do.

55 **3. A certified copy of the court's final judgment shall be filed in the office of the**  
56 **recorder of deeds, in the office of the county clerk in each county in which any of the**  
57 **territory of the district before detachment is located, and in the office of the secretary of**  
58 **state. The recording and filing fees shall be taxed as costs.**