

SECOND REGULAR SESSION
[TRULY AGREED TO AND FINALLY PASSED]
SENATE SUBSTITUTE FOR
HOUSE SUBSTITUTE FOR
HOUSE COMMITTEE SUBSTITUTE FOR
HOUSE BILL NO. 1207

92ND GENERAL ASSEMBLY

3615S.06T

2004

AN ACT

To repeal sections 245.015, 245.060, 245.095, and 246.305, RSMo, and to enact in lieu thereof four new sections relating to levee districts.

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

Section A. Sections 245.015, 245.060, 245.095, and 246.305, RSMo, are repealed and
2 four new sections enacted in lieu thereof, to be known as sections 245.015, 245.060, 245.095,
3 and 246.305, to read as follows:

245.015. **1.** The owners of a majority of the acreage in any contiguous body of swamp,
2 wet or overflowed land or other property in the nature of individual or corporate franchises in
3 this state, or land subject to overflow, wash or bank erosion, [situate] **located** in one or more
4 counties or in [a third or fourth] **any city, town, or village in this state not located within any**
5 **county with a charter form of government and with more than two hundred fifty thousand**
6 **but less than three hundred fifty thousand inhabitants, or in any third or fourth class city,**
7 **town or village in this state which is located within any county with a charter form of**
8 **government and with more than two hundred fifty thousand but less than three hundred**
9 **fifty thousand inhabitants,** may form a levee district for the purpose of having such land and
10 other property reclaimed and protected from the effects of overflow and other water, for sanitary
11 or agricultural purposes, or from the effect of wash or bank erosion, or when the same may be
12 conducive to the public health, convenience or welfare, or of public utility or benefit, by levee,
13 or otherwise, and for that purpose they may make and sign articles of association in which shall
14 be stated: The name of the district, and the number of years the same is to continue; the

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.

15 boundary lines of the proposed levee district; the names as listed on the county assessor's records
16 of the owners of land or other individual or corporate franchise property in [said] **such** district,
17 together with a plat of the district showing the lands to be covered in the district; [said] **such**
18 articles shall further state that the owners of real estate and other such property within [said] **the**
19 district whose names are subscribed to [said] **such** articles are willing to and do obligate
20 themselves to pay the tax or taxes which may be assessed against their respective lands or other
21 property to pay the expense of organizing, and of making and maintaining the improvements that
22 may be necessary to effect the reclamation or protection of [said] **such** lands or other such
23 property, so formed into a levee district, and to reclaim and to protect the same from the effects
24 of overflow and other water, or from bank erosion or wash, and [said] **the** articles of association
25 shall contain a petition praying that the lands and other property described therein be declared
26 a levee district under the provisions of this law. After [said] **the** articles of association and
27 petition have been so signed the same shall be filed in the office of the circuit clerk of the county
28 in which such lands and other property are [situate] **located**; or, if such lands and other property
29 be composed of tracts or parcels [situate] **located** in two or more different counties then in the
30 office of the clerk of the circuit court of the county in which [there are situate] more of [said]
31 **such** lands and other property **are located** than in any other county; provided, that in the event
32 any work is to be done upon any navigable stream, the consent of the federal government shall
33 be obtained to make such improvement or improvements before the actual work on the
34 improvements shall be begun.

35 **2. Any modifications to this section, as enacted by the ninety-second general**
36 **assembly, second regular session, shall not be construed to enhance or limit the current**
37 **law, and any interpretation thereof, with regard to where a levee district may or may not**
38 **be formed within any county with a charter form of government and with more than two**
39 **hundred fifty thousand but less than three hundred fifty thousand inhabitants nor any city,**
40 **town, village, or other political subdivision contained therein.**

245.060. Within thirty days after any levee district shall have been organized and
2 incorporated under the provisions of section 245.025 the circuit clerk of the court organizing
3 [said] **such** district shall, upon giving notice by causing publication to be made once a week for
4 two consecutive weeks in some newspaper published in each county in which lands of the district
5 are [situate] **located**, the last insertion to be at least ten days before the day of such meeting, call
6 a meeting of the owners of real estate or other property [situate] **located** in [said] **such** district,
7 including the authorized representative of any corporation which owns real estate or other
8 property [situate] **located** in [said] **such** district, at a day and hour specified in some public place
9 in the county in which the district was organized, for the purpose of electing a board of five
10 supervisors, to be composed of owners of real estate in [said] **the** district, which may include the

11 authorized representative of any corporation which owns real estate or other property in [said]
12 **the** district, two of whom at least shall be residents of the county or counties in which [said] **the**
13 district is [situate] **located**, or some adjoining counties; the landowners, when assembled, shall
14 organize by the election of a chairman and secretary of the meeting, who shall conduct the
15 election; at such election each and every acre of land and each and every mile of right-of-way
16 of every corporation owning a franchise in the district shall represent one share, and each owner
17 shall be entitled to one vote in person or by proxy for every acre of land or mile of right-of-way
18 owned by him **or her** in such district, and the five persons receiving the highest number of votes
19 shall be declared elected as supervisors; and [said] **the** supervisors shall immediately by lot
20 determine the terms of their office, which shall be respectively one, two, three, four and five
21 years, and they shall serve until their successors shall have been elected and qualified; provided,
22 that if the levee district be located **wholly** within a third or fourth class city of this state, or within
23 any city in this state under fifty thousand population operating under a special charter then the
24 owner of each lot, tract, parcel or subdivision thereof, as set forth in the final decree of the court
25 creating and incorporating [said] **such** levee district, shall be entitled to one vote, in person or
26 by proxy, for each lot, tract, parcel or subdivision thereof, owned by him **or her**.

245.095. **1.** In order to effect the leveeing, protection and reclamation of the land and
2 other property in the district subject to tax, the board of supervisors is authorized and empowered
3 to straighten, widen, change the course and line of any levee in or out of [said] **such** district; to
4 fill up any creek, drain, channel, river, watercourse or natural stream; and to divert or divide the
5 flow of water in or out of [said] **the** district; to construct and maintain sewers, levees, dikes,
6 dams, sluices, revetments, drainage ditches, pumping stations, syphons and any other works and
7 improvements deemed necessary to preserve and maintain the works in or out of [said] **the**
8 district; to construct roadways over levees and embankments; to construct any and all of [said]
9 **such** works and improvements across, through or over any public highway, railroad right-of-way,
10 track, grade, fill or cut in or out of [said] **the** district; to remove any fence, building or other
11 improvements in or out of [said] **the** district, and shall have the right to hold, control and acquire
12 by donation or purchase, and if need be, condemn any land, easement, railroad or other
13 right-of-way, sluice or franchise in or out of [said] **the** district for right-of-way, or for any of the
14 purposes herein provided, or for material to be used in constructing and maintaining [said] **such**
15 works and improvements for leveeing, protecting and reclaiming the lands in [said] **the** district.
16 [Said] **The** board shall also have the right to condemn for the use of the district, any land or
17 property within or without [said] **the** district not acquired or condemned by the court on the
18 report of the commissioners assessing benefits and damages and shall follow the procedure that
19 is now provided by law for the appropriation of land or other property taken for telegraph,
20 telephone and railroad rights-of-way.

21 **2. In addition to the powers granted in subsection 1 of this section, in any levee**
22 **district formed under the laws of this state having an assessed valuation of real property**
23 **of twenty-five million dollars or greater and located, in whole or in part, in any county with**
24 **a charter form of government and with more than one million inhabitants, the board of**
25 **supervisors is authorized to construct and maintain waterlines and any other works and**
26 **improvements deemed necessary to preserve and maintain the works in or out of the**
27 **district.**

 246.305. **1.** In any levee district formed pursuant to the laws of this state having assessed
2 valuation of real property of twenty-five million dollars or greater, which is located in whole or
3 in part in a county [having over nine hundred thousand in population] **with a charter form of**
4 **government and with more than one million inhabitants** according to the last decennial
5 census, the board of supervisors may by order, resolution or ordinance, following a public
6 hearing thereon called upon notice as provided in section 245.060, RSMo, adopt the following
7 alternative [procedures] **procedure** with respect to voting rights [and apportionment of
8 installment taxes]:

9 [(1)] Voting by landowners of the levee district shall be determined on the basis of the
10 assessed benefits of the property owned and the owner of each piece of property shall receive one
11 vote per ten thousand dollars of assessed benefits, rounded to the next lowest amount in cases
12 where assessed benefits do not evenly tally. In cases where the assessed benefits of a piece of
13 property are below ten thousand dollars, the owner shall be entitled to one vote[;].

14 [(2)] **2. In any levee district formed under the laws of this state, the board of**
15 **supervisors may, by order, resolution, or ordinance, following a public hearing thereon**
16 **called upon notice as provided in section 245.060, RSMo, adopt the procedure in this**
17 **subsection with respect to the apportionment of installment taxes.** After the making of a
18 readjustment of the assessment of benefits pursuant to section 245.197, RSMo, then the board
19 of supervisors shall reapportion and levy on each tract of land or other property in the district the
20 taxes imposed under section 245.180, 245.190 or 245.198, RSMo, in proportion to the benefits
21 assessed as readjusted and not in excess thereof. In case bonds have been issued as provided in
22 sections 245.010 to 245.280, RSMo, then the amount of interest which will accrue on such bonds
23 shall be included and added to said taxes as reapportioned and levied based upon the benefits
24 assessed as readjusted. The secretary of the board of supervisors, as soon as said tax has been
25 reapportioned, shall, at the expense of the district, prepare a list of all taxes as reapportioned and
26 levied, in the form of a well-bound book, which book shall be endorsed and named "Readjusted
27 Levee Tax Record of District", which endorsement shall also be printed or written
28 at the top of each page of said book, and shall be signed and certified by the president and
29 secretary of the board of supervisors, attested by the seal of the district, and the same shall

30 thereafter become a permanent record in the office of [said] **the** secretary. The [said] board of
31 supervisors shall each year thereafter determine, order and levy the amount of the annual
32 installment of the total taxes levied under section 245.180, 245.190 or 245.198, RSMo, based
33 upon such reapportionment, which shall in all other respects be due and collected as provided
34 in section 245.185, RSMo.