

FIRST REGULAR SESSION

HOUSE BILL NO. 478

93RD GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE WOOD.

Read 1st time February 8, 2005 and copies ordered printed.

STEPHEN S. DAVIS, Chief Clerk

1535L.011

AN ACT

To repeal sections 249.1152, 249.1154, 249.1155, 640.635, and 701.038, RSMo, and to enact in lieu thereof four new sections relating to regulation of water and sewer systems.

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

Section A. Sections 249.1152, 249.1154, 249.1155, 640.635, and 701.038, RSMo, are
2 repealed and four new sections enacted in lieu thereof, to be known as sections 249.1152,
3 249.1155, 640.635, and 701.038, to read as follows:

249.1152. 1. Upon the adoption of a resolution by the governing body of any county of
2 the third classification located within any watershed in this state, or upon the filing of a petition
3 by the property owners residing within the portion of the watershed that is located within the
4 county's boundaries, a watershed improvement district may be proposed as authorized in this
5 section. The resolution or the petition shall contain the following information:

6 (1) The specific description of the watershed, which shall be identical to any United
7 States geological survey designated watershed, and the proposed district within the county
8 including a map illustrating the boundaries of both the watershed and the proposed district;

9 (2) The name of the proposed district;

10 (3) If the creation of the district is proposed by petition filed by property owners, the
11 name and residence of each petitioner; and

12 (4) The purpose of the district.

13 2. Upon the adoption of a resolution proposing the creation of the district under this
14 section, the governing body of the county shall, by order or ordinance, provide a hearing on the
15 creation of the district. The order or ordinance providing a hearing on the creation of such a

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

16 district shall contain the following information:

17 (1) A description of the boundaries of the proposed district; and

18 (2) The time and place of a hearing to be held to consider establishment of the proposed
19 district.

20 3. Whenever a hearing is held as provided by this section, the governing body of the
21 county approving the proposed district shall:

22 (1) Publish notice of the hearing on two separate occasions in at least one newspaper of
23 general circulation in each county located within the proposed district, with the first publication
24 to occur not more than thirty days before the hearing, and the second publication to occur not
25 more than fifteen days or less than ten days before the hearing. The purpose of the district shall
26 be published in the hearing notice;

27 (2) Hear all protests and receive evidence for or against the establishment of the
28 proposed district; and

29 (3) Rule upon all protests, which determinations shall be final.

30 4. Following the hearing, if the governing body of any county located within the
31 proposed district decides to establish the proposed district, the county shall adopt an order to that
32 effect. If the governing body of any county located within the proposed district receives a
33 petition signed by at least [twenty] **fifty** percent of the property owners in the proposed district
34 requesting establishment of the proposed district then the county shall adopt an order to that
35 effect. An order adopted under this subsection shall contain the following:

36 (1) The description of the boundaries of the watershed, which shall be identical to any
37 United States geological survey designated watershed, and the boundaries of the district within
38 the county;

39 (2) A statement that a watershed improvement district has been established;

40 (3) The name of the district;

41 (4) A declaration that the district is a political subdivision of the state; and

42 (5) The purpose of the district.

43 5. A district established under this section may, at a general or primary election, submit
44 to the qualified voters within the district boundaries a real property tax that shall not exceed five
45 cents per one hundred dollars assessed valuation to fund the operation of the district. The ballot
46 of submission shall be in substantially the following form:

47 Shall the (name of district) impose a real property tax within the district at a rate
48 of not more than (insert amount) dollars per hundred dollars of assessed valuation to fund
49 the operation of the district?

50 YES

NO

51

52 If you are in favor of the question, place an "X" in the box opposite "YES". If you are opposed
53 to the question, place an "X" in the box opposite "NO".

54

55 If a majority of the votes cast in each county that is part of the district favor the proposal, then
56 the real property tax shall become effective in the district on the first day of the year following
57 the year of the election. If a majority of the votes cast in each county that is a part of the district
58 oppose the proposal, then that county shall not impose the real property tax authorized in this
59 section until after the county governing body has submitted another such real property tax
60 proposal and the proposal is approved by a majority of the qualified voters voting thereon.
61 However, if a real property tax proposal is not approved, the governing body of the county shall
62 not resubmit a proposal to the voters under this section sooner than twelve months from the date
63 of the last proposal submitted under this section.

64 6. The real property tax authorized by this section is in addition to all other real property
65 taxes allowed by law.

66 7. Once the real property tax authorized by this section is abolished or terminated by any
67 means, all funds remaining in the trust fund shall be used solely for the purposes approved in the
68 ballot question authorizing the tax. The tax shall not be abolished or terminated while the district
69 has any financing or other obligations outstanding. Any funds in the trust fund which are not
70 needed for current expenditures may be invested by the district in the securities described in
71 subdivisions (1) to (12) of subsection 1 of section 30.270, RSMo, or repurchase agreements
72 secured by such securities.

73 8. There is hereby created a board of trustees to administer any district created and the
74 expenditure of revenue generated under this section. The board shall consist of at least three but
75 not more than ten individuals from the district. The board shall be appointed by the governing
76 body of each county in the district. The membership of the board shall to the extent practicable
77 be in proportion to the number of people living in the watershed in each county. Each county
78 located within the district shall be represented on the board by at least one trustee. Of the initial
79 trustees appointed from each county, a majority shall serve terms of one year, and the remainder
80 shall serve terms of two years, as determined by lot. After the initial appointments of the
81 trustees, the trustees shall be elected by the property owners within the district. Each trustee may
82 be elected to no more than five consecutive two-year terms. Vacancies shall be filled by the
83 board. Each trustee shall serve until a successor is elected and sworn. The trustees shall not
84 receive compensation for their services, but may be reimbursed for their actual and necessary
85 expenses. The board shall elect a chair and other officers necessary for its membership.

86 9. A watershed improvement district created under this section is authorized to own,
87 install, operate, and maintain decentralized or individual on-site wastewater treatment plants.

88 A watershed improvement district created under this section shall be a body corporate and a
89 political subdivision of the state of Missouri, shall be capable of suing and being sued in contract
90 in its corporate name, and shall be capable of holding such real and personal property necessary
91 for corporate purposes. The district shall implement procedures to regulate the area within and
92 consistent with the purpose of the district and to educate property owners about the requirements
93 imposed by the district.

94 10. A watershed improvement district created under this section shall have the power
95 to borrow money and incur indebtedness and evidence the same by certificates, notes, or
96 debentures, to issue bonds and use any one or more lawful funding methods the district may
97 obtain for its purposes at such rates of interest as the district may determine. Any bonds, notes,
98 and other obligations issued or delivered by the district may be secured by mortgage, pledge, or
99 deed of trust of any or all of the property within the district. Every issue of such bonds, notes,
100 or other obligations shall be payable out of property and revenues of the district and may be
101 further secured by other property within the district, which may be pledged, assigned, mortgaged,
102 or a security interest granted for such payment, without preference or priority of the first bonds
103 issued, subject to any agreement with the holders of any other bonds pledging any specified
104 property or revenues. Such bonds, notes, or other obligations shall be authorized by resolution
105 of the district board, and shall bear such date or dates, and shall mature at such time or times, but
106 not in excess of thirty years, as the resolution shall specify. Such bonds, notes, or other
107 obligations shall be in such denomination, bear interest at such rate or rates, be in such form,
108 either coupon or registered, be issued as current interest bonds, compound interest bonds,
109 variable rate bonds, convertible bonds, or zero coupon bonds, be issued in such manner, be
110 payable in such place or places, and be subject to redemption as such resolution may provide,
111 notwithstanding section 108.170, RSMo. The bonds, notes, or other obligations may be sold at
112 either public or private sale, at such interest rates, and at such price or prices as the district shall
113 determine.

114 11. The county commission of any county located within a watershed improvement
115 district may authorize individual properties to be served by the district by adoption of a
116 resolution or upon the filing of a petition signed by at least twenty percent of the property owners
117 of the proposed area. The resolution or petition shall describe generally the size and location of
118 the proposed area.

119 12. In the event that any property within a watershed improvement district proposed
120 under this section lies within or is serviced by any existing sewer district formed under this
121 chapter, chapter 204, or chapter 250, RSMo, the property shall not become part of the watershed
122 improvement district formed under this section unless the existing sewer district agrees to refrain
123 from providing service or to discontinue service to the property. No property shall become part

124 of the watershed district until the owner of that property has paid in full all outstanding costs
125 owed to an existing sewer district formed under this chapter, chapter 204, or chapter 250, RSMo.

126 13. No service shall be initiated to any property lying within the watershed improvement
127 district created under this section unless the property owner elects to have the service provided
128 by the district.

129 14. Any on-site wastewater treatment systems installed on any property that participates
130 in the watershed improvement district formed under this section shall meet all applicable
131 standards for such on-site wastewater treatment systems under sections 701.025 to 701.059,
132 RSMo, and as required by rules or regulations promulgated by the appropriate state agencies.

133 15. Property owners participating in the watershed improvement district formed under
134 this section shall be required as a condition of continued participation to have a maintenance plan
135 approved by the watershed improvement district for the on-site wastewater treatment systems
136 on their properties. Such property owners shall also execute a utilities easement to allow the
137 district access to the system for maintenance purposes and inspections. The property owner shall
138 provide satisfactory proof that periodic maintenance is performed on the sewage system. The
139 level of satisfactory proof required and the frequency of periodic proof shall be determined by
140 the board of trustees.

141 16. In the event that the district is dissolved or terminated by any means, the governing
142 bodies of the counties in the district shall appoint a person to act as trustee for the district so
143 dissolved or terminated. Before beginning the discharge of duties, the trustee shall take and
144 subscribe an oath to faithfully discharge the duties of the office, and shall give bond with
145 sufficient security, approved by the governing bodies of the counties, to the use of the dissolved
146 or terminated district, for the faithful discharge of duties. The trustee shall have and exercise all
147 powers necessary to liquidate the district, and upon satisfaction of all remaining obligations of
148 the district, shall pay over to the county treasurer of each county in the district and take receipt
149 for all remaining moneys in amounts based on the ratio the levy of each county bears to the total
150 levy for the district in the previous three years or since the establishment of the district,
151 whichever time period is shorter. Upon payment to the county treasurers, the trustee shall deliver
152 to the clerk of the governing body of any county in the district all books, papers, records, and
153 deeds belonging to the dissolved district.

249.1155. After August 28, 2004, any county within a watershed improvement district
2 may require that all septic systems **on property benefited by the district** be maintained or
3 pumped every five years by a licensed provider. [In the event a county requires that all septic
4 systems be so maintained or pumped] The owner of any septic system **benefited by the district**
5 shall submit proof of maintenance or pumping to the county department of health or the state
6 department of health and senior services if appropriate which shall determine what shall

7 constitute proof of compliance with the requirement. In addition, the county department of
8 health or the state department of health and senior services if appropriate may charge septic tank
9 owners a reasonable fee for monitoring compliance with the requirement.

640.635. Any [person or] **private** laboratory performing an analysis of wastewater shall
2 be licensed to perform the analysis by the department of natural resources. The department shall
3 determine by rule or regulation the licensing criteria. Any rule or portion of a rule, as that term
4 is defined in section 536.010, RSMo, that is created under the authority delegated in this section
5 shall become effective only if it complies with and is subject to all of the provisions of chapter
6 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo,
7 are nonseverable and if any of the powers vested with the general assembly under chapter 536,
8 RSMo, to review, to delay the effective date, or to disapprove and annul a rule are subsequently
9 held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted
10 after August 28, 2004, shall be invalid and void. The department may require the person or
11 laboratory obtaining a license under this section to pay a fee to the department for licensure. The
12 fee shall be set at a level not to exceed the cost and expense of administering this section.

701.038. 1. The department of health and senior services or any of its agents may not
2 investigate a sewage complaint except when necessary as part of a communicable disease
3 investigation unless the complaint is received from an aggrieved party, an adjacent landowner,
4 or any two residents of the county. The department of health and senior services or any of its
5 agents may enter any adjoining property if necessary when they are making an inspection
6 pursuant to this section. The necessity for entering such adjoining property shall be stated in
7 writing and the owner of such property shall be notified before the department or any of its
8 agents may enter, except that, if an imminent health hazard exists, such notification shall be
9 attempted but is not required.

10 2. If the department or its agents make an investigation pursuant to a complaint as
11 described in subsection 1 of this section and find that a nuisance does exist, the property owner
12 shall comply with state and local standards when repairing or replacing the on-site sewage
13 disposal system.

14 **3. For purposes of this section the term "resident of the county" means any person**
15 **who owns and occupies real property in the county.**

[249.1154. The governing body of any county, by order or ordinance or upon
2 the filing of a petition signed by at least twenty percent of the property owners in an
3 area proposed for designation under this section, may designate groundwater
4 depletion areas within a watershed improvement district created under section
5 249.1150 or 249.1152 and may require well volume monitoring.]