

FIRST REGULAR SESSION

HOUSE BILL NO. 617

93RD GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVES KELLY (Sponsor), WELLS,
DAY AND WALLACE (Co-sponsors).

Read 1st time February 23, 2005 and copies ordered printed.

STEPHEN S. DAVIS, Chief Clerk

1630L.03I

AN ACT

To repeal sections 249.1150 and 249.1152, RSMo, and to enact in lieu thereof two new sections relating to watershed districts.

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

Section A. Sections 249.1150 and 249.1152, RSMo, are repealed and two new sections
2 enacted in lieu thereof, to be known as sections 249.1150 and 249.1152, to read as follows:

249.1150. 1. There is hereby created within any county of the third classification
2 without a township form of government and with more than thirty-four thousand but less than
3 thirty-four thousand one hundred inhabitants, any county of the second classification without a
4 township form of government and with more than fifty-four thousand two hundred but less than
5 fifty-four thousand three hundred inhabitants, [any county of the third classification without a
6 township form of government and with more than thirteen thousand seventy-five but less than
7 thirteen thousand one hundred seventy-five inhabitants,] any county of the first classification
8 with more than two hundred forty thousand three hundred but less than two hundred forty
9 thousand four hundred inhabitants, [any county of the third classification without a township
10 form of government and with more than nine thousand four hundred fifty but less than nine
11 thousand five hundred fifty inhabitants,] any county of the third classification without a township
12 form of government and with more than twenty-eight thousand six hundred but less than
13 twenty-eight thousand seven hundred inhabitants, any county of the first classification with more
14 than thirty-nine thousand seven hundred but less than thirty-nine thousand eight hundred
15 inhabitants, **and** any county of the third classification without a township form of government

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 and with more than thirty-one thousand but less than thirty-one thousand one hundred
17 inhabitants, [and any county of the third classification without a township form of government
18 and with more than seventeen thousand nine hundred but less than eighteen thousand
19 inhabitants,] the Upper White River Basin Watershed Improvement District. The watershed
20 improvement district is authorized to own, install, operate, and maintain decentralized or
21 individual on-site wastewater treatment plants. The watershed improvement district created
22 under this section shall be a body corporate and a political subdivision of the state of Missouri,
23 shall be capable of suing and being sued in contract in its corporate name, and shall be capable
24 of holding such real and personal property necessary for corporate purposes. The district shall
25 implement procedures to regulate the area within the district and to educate property owners
26 within the district about the requirements imposed by the district.

27 2. The watershed improvement district created under this section shall have the power
28 to borrow money and incur indebtedness and evidence the same by certificates, notes, or
29 debentures, to issue bonds and use any one or more lawful funding methods the district may
30 obtain for its purposes at such rates of interest as the district may determine. Any bonds, notes,
31 and other obligations issued or delivered by the district may be secured by mortgage, pledge, or
32 deed of trust of any or all of the property within the district. Every issue of such bonds, notes,
33 or other obligations shall be payable out of property and revenues of the district and may be
34 further secured by other property within the district, which may be pledged, assigned, mortgaged,
35 or a security interest granted for such payment, without preference or priority of the first bonds
36 issued, subject to any agreement with the holders of any other bonds pledging any specified
37 property or revenues. Such bonds, notes, or other obligations shall be authorized by resolution
38 of the district board, and shall bear such date or dates, and shall mature at such time or times, but
39 not in excess of thirty years, as the resolution shall specify. Such bonds, notes, or other
40 obligations shall be in such denomination, bear interest at such rate or rates, be in such form,
41 either coupon or registered, be issued as current interest bonds, compound interest bonds,
42 variable rate bonds, convertible bonds, or zero coupon bonds, be issued in such manner, be
43 payable in such place or places, and be subject to redemption as such resolution may provide,
44 notwithstanding section 108.170, RSMo. The bonds, notes, or other obligations may be sold at
45 either public or private sale, at such interest rates, and at such price or prices as the district shall
46 determine.

47 3. The county commission of any county located within the watershed improvement
48 district may authorize individual properties to be served by the district by adoption of a
49 resolution or upon the filing of a petition signed by at least twenty percent of the property owners
50 of the proposed area. The resolution or petition shall describe generally the size and location of
51 the proposed area.

52 4. In the event that any property within the watershed improvement district proposed
53 under this section lies within or is serviced by any existing sewer district formed under this
54 chapter, chapter 204, or chapter 250, RSMo, the property shall not become part of the watershed
55 improvement district formed under this section unless the existing sewer district agrees to refrain
56 from providing service or to discontinue service to the property. No property shall become part
57 of the watershed district until the owner of that property has paid in full all outstanding costs
58 owed to an existing sewer district formed under this chapter, chapter 204, or chapter 250, RSMo.

59 5. Upon the creation of the watershed improvement district as authorized by this section,
60 a board of trustees for the district consisting of nine members shall be appointed. The governing
61 body of each county shall appoint one member to serve on the board. No trustee shall reside in
62 the same county as another trustee. Of the initial trustees appointed, five shall serve terms of one
63 year, and four shall serve terms of two years, as determined by lot. After the initial appointments
64 of the trustees, the successor trustees shall reside in the same county as the prior trustee and be
65 elected by the resident property owners of their county within the district. Each trustee may be
66 elected to no more than five consecutive two-year terms. Vacancies shall be filled by the board.
67 Each trustee shall serve until a successor is elected and sworn. The trustees shall not receive
68 compensation for their services, but may be reimbursed for their actual and necessary expenses.
69 The board shall elect a chair and other officers necessary for its membership. The board shall
70 enter into contracts with any person or entity for the maintenance, administrative, or support
71 work required to administer the district. The board may charge reasonable fees and submit
72 proposals to levy and impose property taxes to fund the operation of the district to the qualified
73 voters in the district, but such proposals shall not become effective unless a majority of the
74 qualified voters in the district voting on the proposals approve the proposed levy and rate of tax.
75 The board may adopt resolutions necessary to the operation of the district.

76 6. No service shall be initiated to any property lying within the watershed improvement
77 district created under this section unless the property owner elects to have the service provided
78 by the district.

79 7. Any on-site wastewater treatment system installed on any property that participates
80 in the watershed improvement district formed under this section shall meet all applicable
81 standards for such on-site wastewater treatment systems under sections 701.025 to 701.059,
82 RSMo, and as required by rules or regulations promulgated by the board of trustees and the
83 appropriate state agencies.

84 8. Property owners participating in the watershed improvement district formed under this
85 section shall be required as a condition of continued participation to have a maintenance plan
86 approved by the watershed improvement district for the on-site wastewater treatment systems
87 on their properties. Such property owners shall also execute a utilities easement to allow the

88 district access to the system for maintenance purposes and inspections. The property owner shall
89 provide satisfactory proof that periodic maintenance is performed on the sewage system. At a
90 minimum the system shall be installed and maintained according to the manufacturer's
91 recommendations. The level of satisfactory proof required and the frequency of periodic proof
92 shall be determined by the board of trustees.

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

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

100 YES NO

101

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

104

105 If a majority of the votes cast in each county that is part of the district favor the proposal, then
106 the real property tax shall become effective in the district on the first day of the year following
107 the year of the election. If a majority of the votes cast in each county that is a part of the district
108 oppose the proposal, then that county shall not impose the real property tax authorized in this
109 section until after the county governing body has submitted another such real property tax
110 proposal and the proposal is approved by a majority of the qualified voters voting thereon.
111 However, if a real property tax proposal is not approved, the governing body of the county shall
112 not resubmit a proposal to the voters under this section sooner than twelve months from the date
113 of the last proposal submitted under this section.

114 10. The real property tax authorized by this section is in addition to all other real
115 property taxes allowed by law.

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

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
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 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.

154 **17. For a watershed improvement district located in any county of the third**
 155 **classification without a township form of government and with more than thirteen**
 156 **thousand seventy-five but fewer than thirteen thousand one hundred seventy-five**
 157 **inhabitants, any county of the third classification without a township form of government**
 158 **and with more than nine thousand four hundred fifty but fewer than nine thousand five**
 159 **hundred fifty inhabitants, or any county of the third classification without a township form**
 160 **of government and with more than seventeen thousand nine hundred but fewer than**
 161 **eighteen thousand inhabitants, upon the filing of a petition signed by at least twenty**
 162 **percent of the qualified voters of the county requesting removal of the county from a**
 163 **watershed improvement district, the governing body of such county shall at the next**
 164 **general or primary election submit the question to the qualified voters of the county. The**
 165 **ballot submission shall be in substantially the following form:**

166 **Shall County be removed from the watershed improvement district?**
 167 **Yes No**

168
 169 **If you are in favor of the question, place an "X" in the box opposite "YES". If you are**
 170 **opposed to the question, place an "X" in the box opposite "NO".**

171
 172 **If a majority of the votes cast in the county favor the proposal submitted under this**
 173 **subsection, the county shall be removed from the district. If a majority of the votes cast**
 174 **in the county oppose the proposal submitted under this subsection, the county shall not be**
 175 **removed from the district.**