

SECOND REGULAR SESSION

HOUSE BILL NO. 1029

93RD GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE JOHNSON (47).

Pre-filed December 1, 2005 and copies ordered printed.

STEPHEN S. DAVIS, Chief Clerk

3259L.01I

AN ACT

To repeal section 247.040, RSMo, and to enact in lieu thereof one new section relating to public water supply district formation.

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

Section A. Section 247.040, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 247.040, to read as follows:

247.040. 1. Proceedings for the formation of a public water supply district shall be substantially as follows: a petition in duplicate describing the proposed boundaries of the district sought to be formed, accompanied by a plat of the proposed district, shall be filed with the clerk of the circuit court of the county wherein the proposed district is situate, or with the clerk of the circuit court of the county having the largest acreage proposed to be included in the proposed district, in the event that the proposed district embraces lands in more than one county. Such petition, in addition to such boundary description, shall set forth an estimate of the number of customers of the proposed district, the necessity for the formation of the district, the probable cost of the improvement, an approximation of the assessed valuation of taxable property within the district and such other information as may be useful to the court in determining whether or not the petition should be granted and a decree of incorporation entered. Such petition shall be accompanied by a cash deposit of fifty dollars as an advancement of the costs of the proceeding, and the petition shall be signed by not less than fifty voters or owners of real property within the proposed district and shall pray for the incorporation of the territory therein described into a public water supply district. The petition shall be verified by at least one of the signers of the

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 petition, including a statement confirming that service has been made by certified mail to the city
17 manager or the business office of any municipality with boundaries located not more than one
18 mile from any boundary of the proposed district.

19 2. Upon the filing of the petition, the same shall be presented to the circuit court, and
20 such court shall fix a date for a hearing on such petition, as herein provided for. Thereupon the
21 clerk of the court shall give notice of the filing of the petition in some newspaper of general
22 circulation in the county in which the proceedings are pending, and if the district extends into
23 any other county or counties, such notice shall also be published in some newspaper of general
24 circulation in such other county or counties. The notice shall contain a description of the
25 proposed boundary lines of the district and the general purposes of the petition, and shall set
26 forth the date fixed for the hearing on the petition, which shall not be less than seven nor more
27 than twenty-one days after the date of the last publication of the notice and shall be on some
28 regular judicial day of the court wherein the petition is pending. Such notice shall be signed by
29 the clerk of the circuit court and shall be published in three successive issues of a weekly
30 newspaper or in a daily newspaper once a week for three consecutive weeks.

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

33 4. Exceptions to the formation of a district, or to the boundaries outlined in the petition
34 for the incorporation thereof, may be made by any voter or owner of real property in the proposed
35 district or by any municipality with boundaries located not more than one mile from any
36 boundary of the proposed district; provided, such exceptions are filed not less than five days
37 prior to the date set for the hearing on the petition. Such exceptions shall specify the grounds
38 upon which the exceptions are being made. If any such exceptions be filed, the court shall take
39 them into consideration in passing upon the petition and shall also consider the evidence in
40 support of the petition and in support of the exceptions made. Should the court find that the
41 petition should be granted but that changes should be made in the boundary lines, it shall make
42 such changes in the boundary lines as set forth in the petition as to the court may seem meet and
43 proper, and thereupon enter its decree of incorporation, with such boundaries as changed.

44 5. Should the court find that it would not be to the public interest to form such a district,
45 the petition shall be dismissed at the costs of the petitioners. If, however, the court should find
46 in favor of the formation of such district, the court shall enter its decree of incorporation, setting
47 forth the boundaries of the proposed district as determined by the court pursuant to the aforesaid
48 hearing. The decree of incorporation shall also divide the district into five subdistricts and shall
49 fix their boundary lines, all of which subdistricts shall [have approximately the same area and
50 shall] be numbered, **shall comprise compact and contiguous territory, and shall contain, as**
51 **nearly as possible, an equal number of inhabitants. Not later than ninety days following**

52 **the publication of the decennial census, the subdistricts shall be reapportioned as**
53 **necessary.** The decree shall further contain an appointment of one voter from each of such
54 subdistricts, to constitute the first board of directors of the district. No two members of such
55 board so appointed or hereafter elected or appointed shall reside in the same subdistrict, except
56 as provided in section 247.060. If no qualified person who lives in the subdistrict is willing to
57 serve on the board, the court may appoint, or the voters may elect, an otherwise qualified person
58 who lives in the district but not in the subdistrict. The court shall designate two of such directors
59 so appointed to serve for a term of two years and one to serve for a term of one year. And the
60 directors thus appointed by the court shall serve for the terms thus designated and until their
61 successors shall have been appointed or elected as herein provided. The decree shall further
62 designate the name and number of the district by which it shall hereafter be officially known.

63 6. The decree of incorporation shall not become final and conclusive until it shall have
64 been submitted to the voters residing within the boundaries described in such decree and until
65 it shall have been assented to by a majority of the voters as provided in subsection 9 of this
66 section or by two-thirds of the voters of the district voting on the proposition. The decree shall
67 provide for the submission of the question and shall fix the date thereof. The returns shall be
68 certified by the judges and clerks of election to the circuit court having jurisdiction in the case
69 and the court shall thereupon enter its order canvassing the returns and declaring the result of
70 such election.

71 7. If, upon canvass and declaration, it is found and determined that the question shall
72 have been assented to by a majority of two-thirds of the voters of the district voting on such
73 proposition, then the court shall, in such order declaring the result of the election, enter a further
74 order declaring the decree of incorporation to be final and conclusive. In the event, however, that
75 the court should find that the question had not been assented to by the majority above required,
76 the court shall enter a further order declaring such decree of incorporation to be void and of no
77 effect. No appeal shall lie from any such decree of incorporation nor from any of the aforesaid
78 orders. In the event that the court declares the decree of incorporation to be final, as herein
79 provided for, the clerk of the circuit court shall file certified copies of such decree of
80 incorporation and of such final order with the secretary of state of the state of Missouri, and with
81 the recorder of deeds of the county or counties in which the district is situate and with the clerk
82 of the county commission of the county or counties in which the district is situate.

83 8. The costs incurred in the formation of the district shall be taxed to the district, if the
84 district be incorporated, otherwise against the petitioners.

85 9. If petitioners seeking formation of a public water supply district specify in their
86 petition that the district to be organized shall be organized without authority to issue general
87 obligation bonds, then the decrees relating to the formation of the district shall recite that the

88 district shall not have authority to issue general obligation bonds and the vote required for such
89 a decree of incorporation to become final and conclusive shall be a simple majority of the voters
90 of the district voting on such proposition.

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