

SECOND REGULAR SESSION

# HOUSE BILL NO. 1782

## 94TH GENERAL ASSEMBLY

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INTRODUCED BY REPRESENTATIVE TILLEY.

Read 1st time January 23, 2008 and copies ordered printed.

D. ADAM CRUMBLISS, Chief Clerk

4566L.01I

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### AN ACT

To repeal sections 242.230, 242.500, 245.020, 245.105, 245.197, and 246.305, RSMo, and to enact in lieu thereof six new sections relating to levee districts.

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

Section A. Sections 242.230, 242.500, 245.020, 245.105, 245.197, and 246.305, RSMo,  
2 are repealed and six new sections enacted in lieu thereof, to be known as sections 242.230,  
3 242.500, 245.020, 245.105, 245.197, and 246.305, to read as follows:

242.230. The chief engineer shall make a report in writing to the board of supervisors  
2 once every twelve months and [oftener] **more often** if said board shall so require. Upon receipt  
3 of the final report of said engineer concerning surveys made of the lands and other property  
4 contained in the district organized, and plans for reclaiming the same, the board of supervisors  
5 shall adopt such report or any modification thereof approved by the chief engineer after  
6 consulting with [him] **the chief engineer** or someone representing [him] **the chief engineer**, and  
7 thereafter such adopted report shall be the plan for draining, leveeing or reclaiming such lands  
8 and other property from overflow or damage by water, and it shall after such adoption be known  
9 and designated as "The Plan for Reclamation", which plan shall be filed with the secretary of the  
10 board of supervisors and [by him] copied **by the secretary** into the records of the district.  
11 Supplemental plans for draining, leveeing, or reclaiming **some or all of** the lands and other  
12 property in the district from overflow or damage by water may be adopted by the board of  
13 supervisors from time to time as deemed necessary by the board of supervisors. The aforesaid

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.

14 supplemental plans may supplement, alter or modify "The Plan for Reclamation" and shall  
15 become a part thereof.

242.500. 1. Whenever the **board of supervisors of any district in existence as of**  
2 **August 28, 2008, or organized under this chapter after August 28, 2008, on behalf of the**  
3 **district, or the** owners of twenty-five percent or more of the acreage of the lands in the district  
4 shall file a petition with the circuit clerk in whose office the articles of association were filed,  
5 stating that there has been a material change in the values of **all or some of the property in the**  
6 district since the last previous assessment of benefits or readjustment of the assessment of  
7 benefits and praying for a readjustment of the assessment of benefits **of the property identified**  
8 **in the petition** for the purpose of making a more equitable basis for the levy of the maintenance  
9 tax or for the purpose of levying a new tax to pay the costs of the completion of the proposed  
10 works and improvements as shown in the supplemental plan for reclamation adopted by the  
11 board of supervisors pursuant to section 242.230, or for both of the aforesaid purposes, the  
12 circuit clerk shall give notice of the filing and hearing of the petition in the manner and for the  
13 time provided for in section 242.030. The notice may be in the following form:

14 Notice is hereby given to all persons interested in the lands and property included within  
15 the ..... district that a petition has been filed in the office of the clerk of the circuit court of .....  
16 County, ....., praying for a readjustment of the assessment of benefits **of all or some of the**  
17 **property in the district as identified in the petition** for the purpose(s) of ....., and that  
18 the petition will be heard by the circuit court on the ..... day of ....., 20.....  
19 .....,

20 Clerk of the circuit court ..... County  
21

22 Upon hearing of the petition if the court finds that there has been a material change in the values  
23 of **some or all of the property in the district as identified in the petition** since the last previous  
24 assessment of benefits, the court shall order that there be made a readjustment of the assessment  
25 of benefits **for the lands identified in the petition** for the purpose of providing a basis upon  
26 which to levy the maintenance tax of the district or for the purpose of levying a new tax to pay  
27 the costs of the completion of the proposed works and improvements as shown in the  
28 supplemental plan for reclamation adopted by the board of supervisors pursuant to section  
29 242.230, or for both of the aforesaid purposes.

30 2. Thereupon the court shall appoint three commissioners, possessing the qualifications  
31 of commissioners appointed under section 242.240 to make such readjustment of assessments  
32 in the manner provided in section 242.260 **with respect to the lands identified in the petition**  
33 and the commissioners shall make their report, and the same proceedings shall be had thereon,  
34 as nearly as may be, as are herein provided for the assessment of benefits accruing for original

35 construction; provided, that in making the readjustment of the assessment of benefits, the  
36 commissioners shall not be limited to the aggregate amount of the original or any readjustment  
37 of the assessment of benefits, and may assess the amount of benefits that will accrue from  
38 carrying out and putting into effect such supplemental plan for reclamation adopted by the board  
39 of supervisors pursuant to section 242.230. After the making of such readjustment, the limitation  
40 of twenty percent of the annual maintenance tax which may be levied shall apply to the amount  
41 of benefits as readjusted, and the limitation of the tax which may be levied for payment of the  
42 costs of the completion of the proposed works and improvements as shown in the aforesaid  
43 supplemental plan for reclamation shall apply to the amount of the benefits as readjusted. There  
44 shall be no such readjustment of benefits oftener than once in a year. The list of lands, and other  
45 property, with the readjusted assessed benefits and the decree and judgment of the court, shall  
46 be filed in the office of the county recorder as provided in section 242.280.

245.020. 1. After such articles of association shall have been filed, the clerk in whose  
2 office the articles of association have been filed shall give notice by causing publication to be  
3 made once in some newspaper published in each county in which the land and other property of  
4 the district are situate[; said] . **Such** notice shall be published within fourteen days of filing of  
5 the articles[; said] , **and the** notice shall be substantially in the following form and it shall be  
6 deemed sufficient for all purposes of sections 245.010 to 245.280:

7 NOTICE OF APPLICATION TO FORM LEVEE DISTRICT.

8 Notice is hereby given to all persons interested in the following described real estate and  
9 other property in ..... County of Missouri (here describe the property as set out in the articles  
10 of association) that articles of association asking that the foregoing lands and other property be  
11 formed into a levee district under the provisions of sections 245.010 to 245.280, RSMo, have  
12 been filed in this office, and the foregoing real estate and other property will be affected by the  
13 formation of said levee district and be rendered liable to taxation for the purposes of paying the  
14 expenses of organizing and making and maintaining the improvements that may be found  
15 necessary to effect the leveeing and reclamation of the land and other property in said district,  
16 and you and each of you may file objections or exceptions to said articles of association and  
17 petition on or before the ..... day of ....., 20..., in this office, but not thereafter, if any there  
18 be, why said levee district as set forth in the articles of association shall not be organized as a  
19 public corporation of the state of Missouri.

20 .....,

21 Clerk of circuit court of ..... County.

22

23 The circuit court of the county in which said articles of association have been filed shall  
24 thereafter maintain and have original and exclusive jurisdiction coextensive with the boundaries

25 and limits of said district without regard to county lines, for all purposes of this law; provided,  
26 that where lands in different counties are sought to be incorporated in the same district, it shall  
27 not be necessary to include all of the lands in said proposed levee district in the notice published  
28 in the different counties, but only such lands and other property in the district as are situate in  
29 the respective counties.

30 2. Within fourteen days of the filing of the articles, those petitioning for the creation of  
31 the district shall mail, by certified mail, a copy of the notice contained in this section to the  
32 names as listed on the county assessor's records of the owners of land **identified in the petition**  
33 or other individual or corporate franchise property in the district **identified in the petition**,  
34 including all public entities owning land within the district.

245.105. The chief engineer shall make a report in writing to the board of supervisors  
2 when said board shall so require it. Upon receipt of the final report of said engineer concerning  
3 surveys made of the lands and other property contained in the district organized, and plans for  
4 reclaiming or protecting the same the board of supervisors shall adopt such report or any  
5 modification thereof approved by the chief engineer after consulting with [him] **the chief**  
6 **engineer** or someone representing [him] **the chief engineer**, and thereafter such adopted report  
7 shall be the plan for leveeing, protecting or reclaiming such lands and other property from  
8 overflow or damage by water, and it shall after such adoption be known and designated as "the  
9 plan for reclamation" which term shall include leveeing, diking, bank protection, current control  
10 or other improvement, which plan shall be filed with the secretary of the board of supervisors  
11 and [by him] copied **by the secretary** into the records of the district. Supplemental plans for  
12 leveeing, protecting or reclaiming **some or all of** the lands and other property in the district from  
13 overflow or damage by water may be adopted by the board of supervisors from time to time as  
14 deemed necessary by the board of supervisors. The aforesaid supplemental plans may  
15 supplement, alter or modify "the plan for reclamation" and shall become a part thereof.

245.197. 1. Whenever the board of supervisors of any district now existing or hereafter  
2 organized pursuant to sections 245.010 to 245.280, for and in behalf of the district, or the owners  
3 of twenty-five percent or more of the acreage of the lands in the district, shall file a petition with  
4 the circuit clerk[,] in whose office the articles of association were filed[,] stating that there has  
5 been a material change in the values of **all or some of** the property in the district since the last  
6 previous assessment of benefits or readjustment of the assessment of benefits, and praying for  
7 a readjustment of the assessment of benefits **of the property identified in the petition** for the  
8 purpose of making a more equitable basis for the levy of the maintenance tax or for the purpose  
9 of levying a new tax to pay the costs of the completion of the proposed works and improvements  
10 as shown in the supplemental plan for reclamation adopted by the board of supervisors pursuant  
11 to section 245.105, or for both of the aforesaid purposes, the court wherein the petition is filed,

12 if in session, or the clerk thereof in vacation, shall fix a date for the hearing of the petition which  
13 date shall not be less than forty-five nor more than sixty days from the date of the filing of the  
14 petition.

15 2. The circuit clerk shall give notice **to all persons interested in the lands and**  
16 **property identified in the petition** of the filing and hearing of the petition in the manner and  
17 for the time provided for in section 245.020. Such notice may be in the following form:

18 To All Persons Interested in the **following described (insert description of lands and**  
19 **property)** Lands and Property Included Within ..... District:

20 You are hereby notified that a petition has been filed in the office of the clerk of the  
21 circuit court of ..... County, Missouri, praying for a readjustment of the assessment of benefits  
22 for the purpose(s) of .....  
23 ..... and that the petition will be heard by the circuit court  
24 on the .... day of ....., 20....

25 .....

26 Clerk of the Circuit Court of

27 ..... County, Missouri.

28 3. Upon the hearing of the petition, if the court finds that there has been a material  
29 change in the values of **the** property in the district **identified in the petition** since the last  
30 previous assessment of benefits, the court shall order that there be made a readjustment of the  
31 assessment of benefits **for the lands identified in the petition** for the purpose of providing a  
32 basis upon which to levy the maintenance tax of the district or for the purpose of levying a new  
33 tax to pay the costs of the completion of the proposed works and improvements as shown in the  
34 supplemental plan for reclamation adopted by the board of supervisors pursuant to section  
35 245.105, or for both of the aforesaid purposes.

36 4. Thereupon the court shall appoint three commissioners possessing the qualifications  
37 of commissioners appointed under section 245.110 to make such readjustment of assessments  
38 in the manner provided in section 245.120 **with respect to those lands identified in the**  
39 **petition**. The commissioners shall make their report, and the same proceedings shall be had  
40 thereon, as nearly as may be, as are provided in sections 245.010 to 245.280, for the assessment  
41 of benefits accruing from the original construction. In making the readjustment of the  
42 assessment of benefits, the commissioners shall not be limited to the aggregate amount of the  
43 original or any readjustment of the assessment of benefits, and may assess the amount of benefits  
44 that will accrue from carrying out and putting into effect the supplemental plan for reclamation  
45 adopted by the board of supervisors pursuant to section 245.105. After the making of the  
46 readjustment, the limitation of ten percent of the benefits assessed for the annual maintenance  
47 tax which may be levied shall apply to the amount of benefits as readjusted, and the limitation

48 of the tax which may be levied for payment of the costs of the completion of the proposed works  
49 and improvements as shown in the aforesaid supplemental plan for reclamation shall apply to  
50 the amount of the benefits readjusted.

51 5. There shall be no such readjustment of benefits [oftener] **more often** than once in a  
52 year. The lists of land and other property, with the readjusted assessed benefits and the decree  
53 and judgment of the court, shall be filed in the office of the county recorder as provided in  
54 section 245.130.

246.305. 1. In any levee **or drainage** district formed pursuant to the laws of this state  
2 having assessed valuation of real property of twenty-five million dollars or greater, which is  
3 located in whole or in part in a county with a charter form of government and with more than one  
4 million inhabitants according to the last decennial census, the board of supervisors may by order,  
5 resolution or ordinance, following a public hearing thereon called upon notice as provided in  
6 section 245.060, RSMo, adopt the following alternative procedure with respect to voting rights:  
7 voting by landowners of the levee **or drainage** district shall be determined on the basis of the  
8 assessed benefits of the property owned and the owner of each piece of property shall receive one  
9 vote per ten thousand dollars of assessed benefits, rounded to the next lowest amount in cases  
10 where assessed benefits do not evenly tally. In cases where the assessed benefits of a piece of  
11 property are below ten thousand dollars, the owner shall be entitled to one vote.

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

30 installment of the total taxes levied under section 245.180, 245.190 or 245.198, RSMo, based  
31 upon such reapportionment, which shall in all other respects be due and collected as provided  
32 in section 245.185, RSMo.

33       **3. In any drainage district formed under the laws of this state, the board of**  
34 **supervisors may, by order, resolution, or ordinance, following a public hearing thereon**  
35 **called upon notice as provided in section 242.150, RSMo, adopt the procedure in this**  
36 **subsection with respect to the apportionment of installment taxes. After the making of a**  
37 **readjustment of the assessment of benefits, partial or otherwise, under section 242.500,**  
38 **RSMo, then the board of supervisors shall reapportion and levy on each tract of land or**  
39 **other property in the district identified in the petition the taxes imposed under section**  
40 **242.450, 242.470, or 242.502, RSMo, in proportion to the benefits assessed as readjusted**  
41 **and not in excess thereof. In case bonds have been issued as provided in chapter 242,**  
42 **RSMo, then the amount of interest which will accrue on such bonds shall be included and**  
43 **added to such taxes as reapportioned and levied based upon the benefits assessed as**  
44 **readjusted. As soon as the tax has been reapportioned, the secretary of the board of**  
45 **supervisors shall, at the expense of the district, prepare a list of all taxes as reapportioned**  
46 **and levied, in the form of a well-bound book, which book shall be endorsed and named**  
47 **"Readjusted Levee Tax Record of ..... District .....", which endorsement shall also be**  
48 **printed or written at the top of each page of the book, and shall be signed and certified by**  
49 **the president and secretary of the board of supervisors, attested by the seal of the district,**  
50 **and shall thereafter become a permanent record in the office of the secretary. The board**  
51 **of supervisors shall each year thereafter determine, order, and levy the amount of the**  
52 **annual installment of the total taxes levied under section 242.450, 242.470, or 242.502,**  
53 **RSMo, based upon such reapportionment, which shall in all other respects be due and**  
54 **collected as provided in section 242.460, RSMo.**

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