

SECOND REGULAR SESSION

HOUSE BILL NO. 2322

100TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE SHAUL (113).

3568H.011

DANA RADEMAN MILLER, Chief Clerk

AN ACT

To repeal sections 204.602, 204.652, 249.900, 249.1100, 249.1103, 249.1106, 249.1112, and 249.1115, RSMo, and to enact in lieu thereof eight new sections relating to utility districts.

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

Section A. Sections 204.602, 204.652, 249.900, 249.1100, 249.1103, 249.1106, 249.1112, and 249.1115, RSMo, are repealed and eight new sections enacted in lieu thereof, to be known as sections 204.602, 204.652, 249.900, 249.1100, 249.1103, 249.1106, 249.1112, and 249.1115, to read as follows:

204.602. 1. Proceedings for the new formation of a reorganized common sewer district under sections 204.600 to 204.640 shall be substantially as follows: a petition in duplicate describing the proposed boundaries of the reorganized district sought to be formed, accompanied by a plat of the proposed district, shall first be filed with each county commission having jurisdiction in the geographic area the proposed district is situated. Such petition shall be ruled on by each county commission having jurisdiction within thirty days from the date of hearing the petition. If the petition for the reorganized district is rejected by any county commission having jurisdiction, no further action on the proposed district shall take place before the county commission which rejected the petition or the circuit court of that county in the county which rejected the petition. If approved by each county commission having jurisdiction, a petition in duplicate describing the proposed boundaries of the reorganized 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 situated 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

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.

15 that the proposed district embraces lands in more than one county. Such petition, in addition to
16 such boundary description, shall set forth an estimate of the number of customers of the proposed
17 district, the necessity for the formation of the district, the probable cost of acquiring or
18 constructing sanitary sewer improvements with the district, if appropriate, an approximation of
19 the assessed valuation of taxable property within the district, whether the board of trustees shall
20 be elected or appointed by the county commission, and such other information as may be useful
21 to the court in determining whether or not the petition should be granted and a decree of
22 incorporation entered. Such petition shall be accompanied by a cash deposit of fifty dollars as
23 an advancement of the costs of the proceeding. The petition shall be signed by not less than fifty
24 voters or property owners within the proposed district and shall request the incorporation of the
25 territory therein described into a reorganized common sewer district. The petition shall be
26 verified by at least one of the signers.

27 2. Upon filing, the petition shall be presented to the circuit court, and such court shall
28 fix a date for a hearing on such petition, as provided in this section. The clerk of the court shall
29 give notice of the petition filing in some newspaper of general circulation in the county in which
30 the proceedings are pending. If the district extends into any other county, such notice also shall
31 be published in some newspaper of general circulation in such other county. The notice shall
32 contain a description of the proposed boundary lines of the district and the general purposes of
33 the petition. The notice shall set forth the date fixed for the hearing on the petition, which shall
34 not be less than fifteen nor more than twenty-one days after the date of the last publication of the
35 notice, and shall be on some regular judicial day of the court that the petition is pending. Such
36 notice shall be signed by the clerk of the circuit court and shall be published in three successive
37 issues of a weekly newspaper or in a daily paper once a week for three consecutive weeks.

38 3. The court, for good cause shown, may continue the case or the hearing from time to
39 time until final disposition.

40 4. Exceptions to the formation of a district, or to the boundaries outlined in the petition
41 for incorporation, may be made by any voter or property owner within the proposed districts,
42 provided that such exceptions are filed not less than five days prior to the date set for the hearing
43 on the petition. Such exceptions shall specify the grounds upon which the exceptions are being
44 made. If any such exceptions are filed, the court shall take them into consideration in passing
45 upon the petition and also shall consider the evidence in support of the petition and in support
46 of the exceptions made. Should the court find that the petition should be granted but that
47 changes should be made in the boundary lines, it shall make such changes in the boundary lines
48 as set forth in the petition as the court may deem proper and enter its decree of incorporation,
49 with such boundaries as changed. No public sewer district shall be formed under this chapter,
50 chapter 249, section 247.035, or any sewer district created and organized under constitutional

51 authority, the boundaries of which shall encroach upon the corporate boundaries of any sewer
52 district then existing or upon the certificated boundaries then existing of any sewer corporation
53 providing service under a certificate of convenience and necessity granted by the public service
54 commission. Nor shall any public sewer district extend wastewater collection and treatment
55 services within the boundaries of another district without a written cooperative agreement
56 between such districts or within the certificated boundaries then existing of any sewer
57 corporation providing service under a certificate of convenience and necessity granted by the
58 public service commission without a written cooperative agreement between the public sewer
59 district and the certificated sewer corporation.

60 5. Should the court find that it would not be in the public interest to form such a district,
61 the petition shall be dismissed at the cost of the petitioners. If the court should find in favor of
62 the formation of such district, the court shall enter its decree of incorporation, setting forth the
63 boundaries of the proposed district as determined by the court under the hearing. The decree
64 shall further contain an appointment of five voters from the district to constitute the first board
65 of trustees of the district. The court shall designate such trustees to staggered terms from one
66 to five years such that one director is appointed or elected each year. The trustees appointed by
67 the court shall serve for the terms designated and until their successors have been appointed or
68 elected as provided in section 204.610. The decree shall further designate the name of the
69 district by which it shall officially be known.

70 6. The decree of incorporation shall not become final and conclusive until it is submitted
71 to the voters residing within the boundaries described in such decree and until it is assented to
72 by a majority of the voters as provided in subsection 9 of this section or by two-thirds of the
73 voters of the district voting on the proposition. The decree shall provide for the submission of
74 the question and shall fix the date of submission. The returns shall be certified by the election
75 authority to the circuit court having jurisdiction in the case, and the court shall enter its order
76 canvassing the returns and declaring the result of such election.

77 7. If a majority of the voters of the district voting on such proposition approve of the
78 proposition, then the court shall, in such order declaring the result of the election, enter a further
79 order declaring the decree of incorporation to be final and conclusive. In the event, however, that
80 the court should find that the question had not been assented to by the majority required in this
81 section, the court shall enter a further order declaring such decree of incorporation to be void.
82 No appeal shall be permitted from any such decree of incorporation nor from any of the aforesaid
83 orders. In the event that the court declares the decree of incorporation to be final, the clerk of
84 the circuit court shall file certified copies of such decree of incorporation and of such final order
85 with the secretary of state of the state of Missouri, with the recorder of deeds of the county or

86 counties in which the district is situated, and with the clerk of the county commission of the
87 county or counties in which the district is situated.

88 8. The costs incurred in the formation of the district shall be taxed to the district, if the
89 district is incorporated; otherwise the costs shall be paid by the petitioners.

90 9. If petitioners seeking formation of a reorganized common sewer district specify in
91 their petition that the district to be organized shall be organized without authority to issue general
92 obligation bonds, then the decree relating to the formation of the district shall recite that the
93 district shall not have authority to issue general obligation bonds. The vote required for such a
94 decree of incorporation to become final and conclusive shall be a simple majority of the voters
95 of the district.

96 10. Once a reorganized sewer district is established, the boundaries of the reorganized
97 sewer district may be extended or enlarged from time to time upon the filing, with the clerk of
98 the circuit court having jurisdiction, of a petition by either:

99 (1) The board of trustees of the reorganized sewer district and five or more voters or
100 landowners within the territory proposed to be added to the district; or

101 (2) The board of trustees and a majority of the landowners within the territory that is
102 proposed to be added to the reorganized sewer district.

103

104 If the petition is filed by a majority of the voters or landowners within the territory proposed to
105 be added to the reorganized sewer district, the publication of notice shall not be required,
106 provided notice is posted in three public places within such territory at least seven days before
107 the date of the hearing, and provided that there is sworn testimony by at least five landowners
108 in such territory, or a majority of the landowners if the total landowners in the area are fewer than
109 ten. Otherwise the procedures for notice substantially shall follow the procedures in subsection
110 2 of this section for formation. Territory proposed to be added to the reorganized sewer district
111 may be either contiguous or reasonably close to the boundaries of the existing district, provided
112 that it shall not include any territory within the corporate boundaries of any sewer district then
113 existing or within the certificated boundaries then existing of any sewer corporation providing
114 service under a certificate of convenience and necessity granted by the public service
115 commission. Upon the entry of a final judgment declaring the court's decree of territory
116 proposed to be added to the reorganized sewer district to be final and conclusive, the court shall
117 modify or rearrange the boundary lines of the reorganized sewer district as may be necessary or
118 advisable. The costs incurred in the enlargement or extension of the district shall be taxed to the
119 district, if the district is enlarged or extended. Otherwise, such costs shall be paid by the
120 petitioners. However, no costs shall be taxed to the trustees of the district.

11. Should any landowner who owns real estate that is not within the certificated boundaries of any sewer corporation providing service under a certificate of convenience and necessity granted by the public service commission or within another sewer district organized under this chapter or chapters 247 or 249 or under the Missouri Constitution, but that is contiguous or reasonably close to the existing boundaries of the reorganized sewer district, desire to have such real estate incorporated in the district, the landowner shall first petition the board of trustees for its approval. If such approval is granted, the secretary of the board shall endorse a certificate of the board's approval of the petition. The petition so endorsed shall be filed with the clerk of the circuit court in which the reorganized sewer district is incorporated. It then shall be the duty of the court to amend the boundaries of such district by a decree incorporating the real estate. A certified copy of this amended decree including the real estate in the district then shall be filed in the office of the recorder, in the office of the county clerk of the county in which the real estate is located, and in the office of the secretary of state. The costs of this proceeding shall be borne by the petitioning property owner.

12. The board of trustees of any reorganized common sewer district may petition the circuit court of the county containing the majority of the acreage in the district for an amended decree of incorporation to allow that district to engage in the construction, maintenance, and operation of water supply and distribution facilities ~~[that serve ten or more separate properties located wholly within the district, are]~~ **in an area** not served by another political subdivision~~]; or are not located]~~ within the certificated area of a water corporation, as defined in chapter 386, or within a public water supply district, as defined in chapter 247~~]; and the operation and maintenance of all such existing water supply facilities]~~. The petition shall be filed by the board of trustees, and all proceedings shall be in substantially the same manner as in action for initial formation of a reorganized common sewer district, except that no vote of the residents of the district shall be required. All applicable provisions of this chapter shall apply to the construction, operation, and maintenance of water supply facilities in the same manner as they apply to like functions relating to sewer treatment facilities.

13. (1) The board of trustees of a reorganized common sewer district and the board of directors of a public water supply district organized under chapter 247 may jointly petition the circuit court of the county containing the majority of the acreage of the two districts to amend the decrees of incorporation to allow the districts to consolidate the public water supply district into the reorganized common sewer district. The petition shall include a plan of consolidation.

(2) All proceedings shall be conducted in the same manner as in an action for the formation of a reorganized common sewer district, except that the amended decree of incorporation shall not become final and conclusive until the question of consolidating the

157 public water supply district into the reorganized common sewer district is submitted to the
158 qualified voters residing within each existing district. The question shall be in
159 substantively the following form:

160 Shall the public water supply district of _____ be dissolved and
161 consolidated into the sewer district of _____?

162 ☐ Yes ☐ No

163 (3) All applicable provisions of this chapter shall apply to the construction,
164 operation, and maintenance of a water supply facility that is consolidated into a
165 reorganized common sewer treatment district in the same manner such provisions apply
166 to similar functions of sewer treatment facilities.

204.652. As an alternative to all other methods provided by law or charter, the governing
2 body of any sewer district or reorganized sewer district organized and operated under this chapter
3 or chapter 249 or of any metropolitan sewer district organized under the Constitution of [this
4 state,] **Missouri** may make, [or] cause to be made, **or provide** improvements [~~that confer a~~
5 ~~benefit upon property~~] **and service** within a sanitary sewer improvement area under sections
6 204.650 to 204.672. The governing body of such district may issue temporary notes and revenue
7 bonds under sections 204.650 to 204.672 to pay for all or part of the cost of such improvements
8 **and service**. An improvement may be combined with one or more other improvements for the
9 purpose of issuing a single series of revenue bonds to pay all or part of the cost of the sanitary
10 sewer improvement area's improvements, but separate funds or accounts shall be established
11 within the records of the district for each improvement project as provided in sections 204.650
12 to 204.672. [~~Such~~] **In addition to any other fees or charges imposed by the district to**
13 **provide services or pay debt, the district [shall] may** make assessments and may impose user
14 fees on the property located within the sanitary sewer improvement area [, in addition to any
15 ~~other fees or charges imposed by the district to provide services or pay debt. The district shall~~
16 ~~use the moneys collected from such assessments and user fees from a sanitary sewer~~
17 ~~improvement area to reimburse the district for all amounts paid or to be paid by it as principal~~
18 ~~of and interest on its temporary notes and revenue bonds issued for the improvements made in~~
19 ~~the sanitary sewer improvement area.] **to pay for all or part of the costs of improvements and**
20 **service including, but not limited to, the cost of any principal of or interest on temporary**
21 **notes and revenue bonds.**~~

249.900. 1. The board of directors of any sewer district incorporated pursuant to the
2 provisions of this chapter may petition the circuit court of the county containing the major part
3 of the acreage in the district for an amended decree of incorporation to allow that district to
4 engage in the construction, maintenance, and operation of common public water supply [~~which~~]
5 **or a public water supply district that** serves ten or more separate properties and is located

6 wholly **or partially** within the district and is not operated by another political subdivision or is
7 not located within the certificated area of a water corporation as defined in chapter 386 ~~[or within~~
8 ~~a public water supply district as defined in chapter 247]~~ and the operation and maintenance of
9 all such existing facilities. The petition shall be filed by the board of directors and all
10 proceedings shall be in the same manner as in an action for initial formation of a sewer district
11 except that no vote of the residents of the district shall be required.

12 2. If the decree is amended the district shall, within ninety days after the order amending
13 the decree, begin operation of the existing facilities which it has acquired by gift or otherwise
14 and shall establish and collect user charges to be determined and established in the same manner
15 as sewer rates.

16 3. All applicable provisions of this chapter shall apply to the construction, operation and
17 maintenance of water supply in the same manner as they apply to like functions relating to sewer
18 facilities.

249.1100. 1. Except as otherwise provided in Section 30(a) of Article VI of the
2 ~~[Missouri]~~ Constitution of Missouri, regardless of being a sewer district pursuant to chapter 204
3 or this chapter~~[, when]~~ :

4 **(1) If the governing bodies of two or more contiguous sewer districts located in any**
5 **county of the first classification** ~~[without a charter form of government]~~ **having not less than one**
6 **hundred seventy thousand and not more than two hundred thousand inhabitants determine that**
7 **a consolidated sewer system would better serve the area within their boundaries, the governing**
8 **bodies shall submit the proposal for a consolidated sewer district to the governing body of** ~~[such]~~
9 **the county.** The governing body of the county, after consultation with the sewer engineer
10 pursuant to section 204.300 and section 249.460, shall by resolution submit the question of
11 creating a consolidated sewer district to all qualified voters residing within each existing district
12 at a municipal ~~[or]~~ , general, or special election called for that purpose; **or**

13 **(2) If the governing bodies of one sewer district and one public water supply district**
14 **located in any county of the first classification having no less than one hundred seventy**
15 **thousand and no more than two hundred thousand inhabitants determine that a**
16 **consolidated sewer system would better serve the area within their boundaries, the**
17 **governing bodies shall submit the proposal for a consolidated sewer and public water**
18 **supply district to the governing body of the county.** The governing body of the county,
19 **after consultation with the sewer engineer pursuant to sections 204.300 and 249.460, shall**
20 **by resolution submit the question of creating a consolidated sewer and public water supply**
21 **district to all qualified voters residing within each existing district at a municipal, general,**
22 **or special election called for that purpose.**

23 2. The resolution shall set forth the ~~[project]~~ name for the proposed consolidated ~~[sewer]~~
24 district, the general nature of the proposed consolidated ~~[sewer]~~ district, the estimated cost of the
25 sewer **or other** improvements for such consolidated ~~[sewer]~~ district, the boundaries of the
26 existing districts to be consolidated, the proposed method or methods of assessment, and a
27 statement ~~[that]~~ **of** the final cost of such sewer **or other** improvements assessed against property
28 within the consolidated ~~[sewer]~~ district ~~[and]~~ . The amount of general obligation bonds issued
29 therefor shall not exceed the estimated cost of such sewer **or other** improvements, as stated in
30 such notice, by more than twenty-five percent.

 249.1103. The governing body of the county receiving the proposal pursuant to section
2 249.1100 shall set a day for a public hearing prior to election for the ~~[creation of a consolidated]~~
3 **consolidation of the sewer districts or of the sewer district and public water supply district.**
4 **The governing body** shall publish the resolution with a notice of the time and place of public
5 hearing in some local newspaper of general circulation, published in such county in which any
6 district proposed to be consolidated lies, at least thirty days before the date of the hearing. At
7 such hearing, anyone interested in the proposed consolidation of sewer districts **or of the sewer**
8 **district and public water supply district** may appear and present ~~[their]~~ **his or her** views to
9 the governing body of the county.

 249.1106. 1. The ballot upon which the question of ~~[creating a consolidated]~~
2 **consolidating sewer districts or a sewer district and public water supply district** is submitted
3 to the qualified voters residing within each existing ~~[sewer]~~ district ~~[or districts]~~ shall contain a
4 question in substantially the following form:
5

6 Shall the _____ (governing body's name) of _____ (county's name) be
7 authorized to dissolve the existing _____ (name of existing ~~[sewer district]~~
8 **districts**) and create a consolidated ~~[sewer]~~ district proposed for the _____
9 (name of existing ~~[sewer]~~ districts to be consolidated) and authorize the
10 consolidated ~~[sewer]~~ districts to incur indebtedness and issue general obligation
11 bonds to pay for all or part of the cost of the creation and maintenance of such
12 consolidated ~~[sewer]~~ district, with the cost of all indebtedness so incurred to be
13 assessed by the _____ (name of consolidated ~~[sewer]~~ district) on the property
14 within the consolidated ~~[sewer]~~ district?

15 ☐ YES ☐ NO

16 If you are in favor of the question, place an "X" in the box opposite "YES". If you
17 are opposed to the question, place an "X" in the box opposite "NO".
18

19 If a majority of the total votes cast on the ~~[proposal]~~ **question** by the qualified voters of each
20 existing district ~~[or districts]~~ voting thereon are in favor of the ~~[proposal]~~ **question**, then the
21 order shall become effective. If ~~[the proposal receives]~~ less than ~~[the required]~~ **a majority is in**
22 **favor of the question** in at least one existing district, then the governing body of the county shall
23 have no power to impose the consolidation of ~~[sewer]~~ districts as authorized pursuant to this
24 section unless and until the governing body of the county ~~[shall]~~ **submits the question** again
25 ~~[have submitted another proposal to authorize the governing body of the county to consolidate~~
26 ~~authorized by this section]~~ and ~~[such proposal]~~ **the question** is approved by ~~[the required]~~ **a**
27 majority of the total votes cast ~~[on the proposal by the qualified voters of]~~ **in** each existing
28 district ~~[or districts voting on such proposal]~~.

29 2. The boundaries of the proposed consolidated ~~[sewer]~~ district shall be described by
30 metes and bounds, streets, or other sufficiently specific description.

31 3. There shall be separate submissions of the question of creating a consolidated ~~[sewer]~~
32 district to each group of voters within each existing ~~[sewer]~~ district ~~[or districts]~~, and the
33 elections shall be held simultaneously.

249.1112. 1. A ~~[sewer]~~ district created pursuant to sections 249.1100 to ~~[249.1127]~~
2 **249.1118** shall have a board of directors, which shall consist of five members, appointed by the
3 governing body of the county in which the consolidated ~~[sewer]~~ district is located. Each member
4 shall be a United States citizen, a registered voter, **and** over the age of twenty-five years and
5 shall have been a resident within the consolidated ~~[sewer]~~ district for one whole year prior to
6 appointment.

7 2. The board shall be responsible for the control and operation of all ~~[such]~~ sewer
8 districts **or sewer district and public water supply district** organized pursuant to section
9 249.1106.

10 3. Beginning with appointments **of the initial board members** made after August 28,
11 2001, one member shall be appointed for four years, two members shall be appointed for three
12 years, and two members shall be appointed for two years. Following the initial appointments,
13 the term of each board member shall be five years.

14 4. A vacancy in the office of a member shall be filled by appointment in the same
15 manner as the original appointments.

16 5. No member of the board shall be entitled to any compensation for the performance
17 of the member's official duties, but each member shall be reimbursed for necessary and actual
18 expenses incurred in the performance of the member's official duties by the consolidated sewer
19 district. The board members shall be reimbursed by the district for all reasonable expenses
20 incurred in the performance of their duties.

249.1115. The consolidated [~~sewer~~] district shall retain all the powers, privileges, and
2 duties therein conferred and provided upon each original individual sewer district **or public**
3 **water supply district** pursuant to chapter 204, **chapter 247**, or this chapter, whichever it was
4 created and organized under.

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