

SECOND REGULAR SESSION

HOUSE BILL NO. 2351

102ND GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE BONACKER.

4751H.011

DANA RADEMAN MILLER, Chief Clerk

AN ACT

To repeal section 204.602, RSMo, and to enact in lieu thereof one new section relating to sewer districts.

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

Section A. Section 204.602, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 204.602, to read as follows: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 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

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.

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

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

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

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

55 then existing of any sewer corporation providing service under a certificate of convenience
56 and necessity granted by the public service commission. Nor shall any public sewer district
57 extend wastewater collection and treatment services within the boundaries of another district
58 without a written cooperative agreement between such districts or within the certificated
59 boundaries then existing of any sewer corporation providing service under a certificate of
60 convenience and necessity granted by the public service commission without a written
61 cooperative agreement between the public sewer district and the certificated sewer
62 corporation.

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

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

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

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

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

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

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

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

106

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

124 11. Should any landowner who owns real estate that is not within the certificated
125 boundaries of any sewer corporation providing service under a certificate of convenience and
126 necessity granted by the public service commission or within another sewer district organized
127 under this chapter or chapters 247 or 249 or under the Missouri Constitution, but that is

128 contiguous or reasonably close to the existing boundaries of the reorganized sewer district,
129 desire to have such real estate incorporated in the district, the landowner shall first petition the
130 board of trustees for its approval. If such approval is granted, the secretary of the board shall
131 endorse a certificate of the board's approval of the petition. The petition so endorsed shall be
132 filed with the clerk of the circuit court in which the reorganized sewer district is incorporated.
133 It then shall be the duty of the court to amend the boundaries of such district by a decree
134 incorporating the real estate. A certified copy of this amended decree including the real estate
135 in the district then shall be filed in the office of the recorder, in the office of the county clerk
136 of the county in which the real estate is located, and in the office of the secretary of state. The
137 costs of this proceeding shall be borne by the petitioning property owner.

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

151 **13. Notwithstanding the provisions of subsection 12 of this section to the**
152 **contrary, when the board of trustees of a reorganized common sewer district and the**
153 **governing body of a public water supply district as defined in chapter 247 mutually**
154 **determine that a consolidation of their sewer and water operations would better serve**
155 **the area within their boundaries, the board of trustees of the reorganized common sewer**
156 **district shall petition the circuit court of the county containing the majority of the**
157 **consolidated service territory to amend the decree of incorporation to allow the district**
158 **to consolidate the public water supply district into the reorganized common sewer**
159 **district. The petition shall include a plan of consolidation and shall be filed by the board**
160 **of trustees, and all proceedings shall be conducted in the same manner as in an action**
161 **for the initial formation of the reorganized common sewer district, except that no vote of**
162 **the residents of the district shall be required. All applicable provisions of this chapter**

163 shall apply to the construction, operation, and maintenance of water supply facilities in
164 the same manner as they apply to like functions relating to sewer treatment facilities.

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