

SECOND REGULAR SESSION

# HOUSE BILL NO. 3351

103RD GENERAL ASSEMBLY

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INTRODUCED BY REPRESENTATIVE COSTLOW.

7133H.011

JOSEPH ENGLER, Chief Clerk

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## AN ACT

To repeal section 247.031, RSMo, and to enact in lieu thereof three new sections relating to public water supply districts.

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

Section A. Section 247.031, RSMo, is repealed and three new sections enacted in lieu thereof, to be known as sections 247.031, 247.033, and 247.229, to read as follows:

247.031. 1. Territory included in a district that is not being served by such district may be detached from such district provided that there are no outstanding general obligation or special obligation bonds and no contractual obligations of greater than twenty-five thousand dollars for debt that pertains to infrastructure, fixed assets or obligations for the purchase of water. If any such bonds or debt is outstanding, and the written consent of the holders of such bonds or the creditors to such debt is obtained, then such territory may be detached in spite of the existence of such bonds or debt, except such consent shall not be required for special obligation bonds if the district has no water lines or other facilities located within any of the territory detached. Detachment may be made by the filing of a petition with the circuit court in which the district was incorporated. The petition shall contain a description of the tract to be detached and a statement that the detachment is in the best interest of the district or the inhabitants and property owners of the territory to be detached, together with the facts supporting such allegation. The petition may be submitted by the district acting through its board of directors, in which case the petition shall be signed by a majority of the board of directors of the district. The petition may also be submitted by voters residing in or by landowners owning land in the territory sought to be detached. If there are more than ten voters and landowners in such territory, the petition shall be signed by five or

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 more voters or landowners within the territory; if there are less than ten voters and  
 19 landowners within such territory, the petition shall be signed by fifty percent or more of the  
 20 voters and landowners within the territory. In the event there are no voters living within such  
 21 territory proposed to be detached, then the petition may be submitted by owners of more than  
 22 fifty percent of the land in the territory proposed to be detached, in which case said petition  
 23 shall be signed by the owners so submitting the petition. In the event the petition is not  
 24 submitted by the district acting through its board of directors, the petitioner shall name the  
 25 district as a defendant and serve a copy of the petition upon the district by certified or  
 26 registered mail with a return receipt requested at least thirty-five days before the date of the  
 27 hearing of the petition.

28         2. Such petition shall be filed in the circuit court having jurisdiction and the court  
 29 shall set a date for hearing on the proposed detachment and the clerk of the circuit court shall  
 30 give notice of the filing of the petition and the hearing to the district by certified or registered  
 31 mail with a return receipt requested if the district is not the petitioner, and in a newspaper of  
 32 general circulation in the county in which the proceedings are pending and in a newspaper of  
 33 general circulation in the territory proposed to be detached. Such notice shall be published in  
 34 three consecutive issues of a weekly newspaper, or in lieu thereof, in twenty consecutive  
 35 issues of a daily newspaper. The last insertion of the notice shall be made not less than seven  
 36 nor more than twenty-one days before the hearing date. Such notice shall be substantially as  
 37 follows:

38                 IN THE CIRCUIT COURT OF \_\_\_\_\_ COUNTY, MISSOURI  
 39                         NOTICE OF THE FILING OF A PETITION  
 40                         FOR TERRITORIAL DETACHMENT FROM  
 41                         PUBLIC WATER SUPPLY DISTRICT NO. \_\_\_\_\_  
 42                         OF \_\_\_\_\_ COUNTY, MISSOURI.

43 To all voters and landowners of land within the boundaries of the  
 44 above-described district:

45 You are hereby notified:

- 46 1. That a petition has been filed in this court for the detachment of  
 47 the following tracts of land from the above-named public water  
 48 supply district, as provided by law:  
 49 (Describe tracts of land).
- 50 2. That a hearing on said petition will be held before this court in \_\_\_\_  
 51 \_\_\_\_ on the \_\_\_\_ day of \_\_\_\_, 20\_\_\_\_, at \_\_\_\_\_,  
 52 \_\_\_\_m.
- 53 3. Exceptions or objections to the detachment of said tracts from  
 54 said public water supply district may be made by the district or

55 any voter or landowner of land within the district from which  
56 territory is sought to be detached, provided such exceptions or  
57 objections are in writing, specify the grounds on which they are  
58 made, and are filed with the court not later than five days prior to  
59 the date of the hearing of the petition.

60 4. The names and addresses of the attorneys for the petitioner are:

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\_\_\_\_\_  
Clerk of the Circuit Court of  
\_\_\_\_\_ County, Missouri

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

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4. Exceptions or objections to the detachment of such territory may be made by any  
voter or landowner within the boundaries of the district, including the territory to be detached.  
In the event the petition is not submitted by the district acting through its board of directors,  
the district may file exceptions or objections. Exceptions or objections shall be in writing,  
shall specify the grounds upon which they are made, and shall be filed not later than five days  
before the date set for hearing the petition. In considering the petition for detachment, the  
court shall take into consideration the evidence in support of and opposition to the petition,  
including such exceptions and objections. If the court finds that the detachment will be in the  
best interest of the district and the inhabitants and landowners of the area to be detached will  
not be adversely affected or if the court finds that the detachment will be in the best interest of  
the inhabitants and landowners of the territory to be detached and will not adversely affect the  
remainder of the district, it shall approve the detachment and grant the petition.

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5. If the court approves the detachment, it shall make its order detaching the territory  
described in the petition from the remainder of the district, or in the event it shall find that  
only a portion of said territory should be detached, the court shall order such portion detached  
from the district. The court shall also make any changes in subdistrict boundary lines it  
deems necessary to meet the requirements of sections 247.010 to 247.220. Any subdistrict  
line changes shall not become effective until the next annual election of a member of the  
board of directors.

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6. A certified copy of the court's order shall be filed in the office of the recorder of  
deeds and in the office of the county clerk in each county in which any of the territory of the  
district prior to detachment is located, and in the office of the secretary of state. Costs of the  
proceeding shall be borne by the petitioner or petitioners.

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**7. The provisions of this section shall not apply to specific demand customers  
requesting detachment under the provisions of section 247.033.**

247.033. 1. As used in the section, the term "specific demand customer" shall mean any customer with quantity and quality requirements that differ from the typical customer of the public water supply district and may exceed the capabilities of the public water supply district.

2. (1) Customers shall, when requesting service from a public water supply district, inform the district of the quantity and quality of water the customer will require.

(2) Upon receipt of a request for service from a customer, the public water supply district shall respond within sixty days, informing the customer whether the public water supply district can meet the requested quantity and quality of water within a reasonable time frame and at a reasonable cost. For the purposes of this section, "reasonable time frame" shall mean a period of time that does not create an undue burden on the specific demand customer and "reasonable cost" shall mean a cost per quantity and quality that is comparable to similar customers within the public water supply district and may include actual costs incurred by the public water supply district.

(3) A specific demand customer may bring a challenge in a court of competent jurisdiction on the basis of unreasonable time frame or unreasonable cost. If the court finds in favor of the specific demand customer, the court shall enforce a reasonable time frame and reasonable cost for service or allow the specific demand customer to detach from the public water supply district.

3. (1) If the public water supply district declines or is unable to provide service to a specific demand customer, the specific demand customer may provide the public water supply district with a notice of intent to detach and shall be allowed to detach, except as provided in subdivision (2) of this subsection.

(2) If the public water supply district is prevented from granting detachment as a result of any federal loans, as described in subsection 1 of section 247.031, the public water supply district shall not delay payment of such loan or enter into new loan agreements until such specific demand customer is offered the opportunity to detach from the public water supply district.

4. Specific demand customers may elect to pay the outstanding balance of any federal loans of the public water supply district that prevent detachment. The specific demand customer shall inform the district of the customer's intent to satisfy the federal loan and detach from the public water supply district and the public water supply district shall apply any moneys received from the specific demand customer to such loans immediately upon receipt.

247.229. 1. If a public water supply district organized under the provisions set forth in sections 247.010 to 247.220 has an outstanding debt owed to or guaranteed by

3 the United States government or any agency thereof, the board of directors of such  
4 district shall accept any gift, donation, or bequest of money made to the district for the  
5 payment of debt, unless acceptance of the gift, donation, or bequest would be in  
6 violation of current law, or the fulfillment of the terms of the gift, donation, or bequest  
7 are in violation of current law.

8       2. Monetary gifts, donations, or bequests accepted by the board of directors  
9 pursuant to subsection 1 of this section shall be applied first to the payment or  
10 prepayment of any outstanding debt of the district that is owed to or guaranteed by the  
11 United States government or any agency thereof, if the gift, donation, or bequest was  
12 given for that purpose. Monetary gifts, donations, or bequests that are given without a  
13 designated purpose may be used at the discretion of the board.

14       3. If the amount of any such monetary gift, donation, or bequest exceeds the  
15 amount necessary to pay or prepay all outstanding debt owed to or guaranteed by the  
16 United States government or any agency thereof, the board of directors may apply the  
17 excess funds as otherwise authorized by current law.

18       4. If no such debt exists at the time the gift, donation, or bequest is received, or if  
19 the donor has expressly directed the application of the gift, donation, or bequest to  
20 another purpose, the board of directors may apply the funds as otherwise authorized by  
21 current law.

22       5. The board of directors shall maintain records of all monetary gifts, donations,  
23 or bequests received and the application thereof, and shall make such records available  
24 for public inspection upon request.

25       6. Any person or entity may, at any time, tender payment in full or in part of any  
26 outstanding debt of the district that is owed to or guaranteed by the United States  
27 government or any agency thereof, for the benefit of the district. The board of directors  
28 shall take all actions necessary to authorize and facilitate the acceptance and application  
29 of any such payment to the indebtedness, provided that the payment is made without  
30 condition, restriction, or requirement for consideration or performance by the district,  
31 other than the application of the payment toward the indebtedness. The board of  
32 directors shall not reverse, cancel, reject, or otherwise interfere with the application of  
33 such payment to the debt obligation, and, if required, shall obtain any United States  
34 approval necessary for the application of such payment.

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