

FIRST REGULAR SESSION

SENATE BILL NO. 70

101ST GENERAL ASSEMBLY

INTRODUCED BY SENATOR GANNON.

1050S.01H

ADRIANE D. CROUSE, Secretary

AN ACT

To repeal section 204.602, RSMo, and to enact in lieu thereof one new section relating to utility 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Section A. Section 204.602, RSMo, is repealed and one new
2 section enacted in lieu thereof, to be known as section 204.602,
3 to read as follows:

204.602. 1. Proceedings for the new formation of a
2 reorganized common sewer district under sections 204.600 to
3 204.640 shall be substantially as follows: a petition in
4 duplicate describing the proposed boundaries of the
5 reorganized district sought to be formed, accompanied by a
6 plat of the proposed district, shall first be filed with
7 each county commission having jurisdiction in the geographic
8 area the proposed district is situated. Such petition shall
9 be ruled on by each county commission having jurisdiction
10 within thirty days from the date of hearing the petition.
11 If the petition for the reorganized district is rejected by
12 any county commission having jurisdiction, no further action
13 on the proposed district shall take place before the county
14 commission which rejected the petition or the circuit court
15 of that county in the county which rejected the petition.
16 If approved by each county commission having jurisdiction, a
17 petition in duplicate describing the proposed boundaries of
18 the reorganized district sought to be formed, accompanied by

EXPLANATION-Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

19 a plat of the proposed district, shall be filed with the
20 clerk of the circuit court of the county wherein the
21 proposed district is situated or with the clerk of the
22 circuit court of the county having the largest acreage
23 proposed to be included in the proposed district, in the
24 event that the proposed district embraces lands in more than
25 one county. Such petition, in addition to such boundary
26 description, shall set forth an estimate of the number of
27 customers of the proposed district, the necessity for the
28 formation of the district, the probable cost of acquiring or
29 constructing sanitary sewer improvements with the district,
30 if appropriate, an approximation of the assessed valuation
31 of taxable property within the district, whether the board
32 of trustees shall be elected or appointed by the county
33 commission, and such other information as may be useful to
34 the court in determining whether or not the petition should
35 be granted and a decree of incorporation entered. Such
36 petition shall be accompanied by a cash deposit of fifty
37 dollars as an advancement of the costs of the proceeding.
38 The petition shall be signed by not less than fifty voters
39 or property owners within the proposed district and shall
40 request the incorporation of the territory therein described
41 into a reorganized common sewer district. The petition
42 shall be verified by at least one of the signers.

43 2. Upon filing, the petition shall be presented to the
44 circuit court, and such court shall fix a date for a hearing
45 on such petition, as provided in this section. The clerk of
46 the court shall give notice of the petition filing in some
47 newspaper of general circulation in the county in which the
48 proceedings are pending. If the district extends into any
49 other county, such notice also shall be published in some
50 newspaper of general circulation in such other county. The

51 notice shall contain a description of the proposed boundary
52 lines of the district and the general purposes of the
53 petition. The notice shall set forth the date fixed for the
54 hearing on the petition, which shall not be less than
55 fifteen nor more than twenty-one days after the date of the
56 last publication of the notice, and shall be on some regular
57 judicial day of the court that the petition is pending.
58 Such notice shall be signed by the clerk of the circuit
59 court and shall be published in three successive issues of a
60 weekly newspaper or in a daily paper once a week for three
61 consecutive weeks.

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

65 4. Exceptions to the formation of a district, or to
66 the boundaries outlined in the petition for incorporation,
67 may be made by any voter or property owner within the
68 proposed districts, provided that such exceptions are filed
69 not less than five days prior to the date set for the
70 hearing on the petition. Such exceptions shall specify the
71 grounds upon which the exceptions are being made. If any
72 such exceptions are filed, the court shall take them into
73 consideration in passing upon the petition and also shall
74 consider the evidence in support of the petition and in
75 support of the exceptions made. Should the court find that
76 the petition should be granted but that changes should be
77 made in the boundary lines, it shall make such changes in
78 the boundary lines as set forth in the petition as the court
79 may deem proper and enter its decree of incorporation, with
80 such boundaries as changed. No public sewer district shall
81 be formed under this chapter, chapter 249, section 247.035,
82 or any sewer district created and organized under

83 constitutional authority, the boundaries of which shall
84 encroach upon the corporate boundaries of any sewer district
85 then existing or upon the certificated boundaries then
86 existing of any sewer corporation providing service under a
87 certificate of convenience and necessity granted by the
88 public service commission. Nor shall any public sewer
89 district extend wastewater collection and treatment services
90 within the boundaries of another district without a written
91 cooperative agreement between such districts or within the
92 certificated boundaries then existing of any sewer
93 corporation providing service under a certificate of
94 convenience and necessity granted by the public service
95 commission without a written cooperative agreement between
96 the public sewer district and the certificated sewer
97 corporation.

98 5. Should the court find that it would not be in the
99 public interest to form such a district, the petition shall
100 be dismissed at the cost of the petitioners. If the court
101 should find in favor of the formation of such district, the
102 court shall enter its decree of incorporation, setting forth
103 the boundaries of the proposed district as determined by the
104 court under the hearing. The decree shall further contain
105 an appointment of five voters from the district to
106 constitute the first board of trustees of the district. The
107 court shall designate such trustees to staggered terms from
108 one to five years such that one director is appointed or
109 elected each year. The trustees appointed by the court
110 shall serve for the terms designated and until their
111 successors have been appointed or elected as provided in
112 section 204.610. The decree shall further designate the
113 name of the district by which it shall officially be known.

114 6. The decree of incorporation shall not become final
115 and conclusive until it is submitted to the voters residing
116 within the boundaries described in such decree and until it
117 is assented to by a majority of the voters as provided in
118 subsection 9 of this section or by two-thirds of the voters
119 of the district voting on the proposition. The decree shall
120 provide for the submission of the question and shall fix the
121 date of submission. The returns shall be certified by the
122 election authority to the circuit court having jurisdiction
123 in the case, and the court shall enter its order canvassing
124 the returns and declaring the result of such election.

125 7. If a majority of the voters of the district voting
126 on such proposition approve of the proposition, then the
127 court shall, in such order declaring the result of the
128 election, enter a further order declaring the decree of
129 incorporation to be final and conclusive. In the event,
130 however, that the court should find that the question had
131 not been assented to by the majority required in this
132 section, the court shall enter a further order declaring
133 such decree of incorporation to be void. No appeal shall be
134 permitted from any such decree of incorporation nor from any
135 of the aforesaid orders. In the event that the court
136 declares the decree of incorporation to be final, the clerk
137 of the circuit court shall file certified copies of such
138 decree of incorporation and of such final order with the
139 secretary of state of the state of Missouri, with the
140 recorder of deeds of the county or counties in which the
141 district is situated, and with the clerk of the county
142 commission of the county or counties in which the district
143 is situated.

144 8. The costs incurred in the formation of the district
145 shall be taxed to the district, if the district is

146 incorporated; otherwise the costs shall be paid by the
147 petitioners.

148 9. If petitioners seeking formation of a reorganized
149 common sewer district specify in their petition that the
150 district to be organized shall be organized without
151 authority to issue general obligation bonds, then the decree
152 relating to the formation of the district shall recite that
153 the district shall not have authority to issue general
154 obligation bonds. The vote required for such a decree of
155 incorporation to become final and conclusive shall be a
156 simple majority of the voters of the district.

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

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

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

168 If the petition is filed by a majority of the voters or
169 landowners within the territory proposed to be added to the
170 reorganized sewer district, the publication of notice shall
171 not be required, provided notice is posted in three public
172 places within such territory at least seven days before the
173 date of the hearing, and provided that there is sworn
174 testimony by at least five landowners in such territory, or
175 a majority of the landowners if the total landowners in the
176 area are fewer than ten. Otherwise the procedures for

177 notice substantially shall follow the procedures in
178 subsection 2 of this section for formation. Territory
179 proposed to be added to the reorganized sewer district may
180 be either contiguous or reasonably close to the boundaries
181 of the existing district, provided that it shall not include
182 any territory within the corporate boundaries of any sewer
183 district then existing or within the certificated boundaries
184 then existing of any sewer corporation providing service
185 under a certificate of convenience and necessity granted by
186 the public service commission. Upon the entry of a final
187 judgment declaring the court's decree of territory proposed
188 to be added to the reorganized sewer district to be final
189 and conclusive, the court shall modify or rearrange the
190 boundary lines of the reorganized sewer district as may be
191 necessary or advisable. The costs incurred in the
192 enlargement or extension of the district shall be taxed to
193 the district, if the district is enlarged or extended.
194 Otherwise, such costs shall be paid by the petitioners.
195 However, no costs shall be taxed to the trustees of the
196 district.

197 11. Should any landowner who owns real estate that is
198 not within the certificated boundaries of any sewer
199 corporation providing service under a certificate of
200 convenience and necessity granted by the public service
201 commission or within another sewer district organized under
202 this chapter or chapters 247 or 249 or under the Missouri
203 Constitution, but that is contiguous or reasonably close to
204 the existing boundaries of the reorganized sewer district,
205 desire to have such real estate incorporated in the
206 district, the landowner shall first petition the board of
207 trustees for its approval. If such approval is granted, the
208 secretary of the board shall endorse a certificate of the

209 board's approval of the petition. The petition so endorsed
210 shall be filed with the clerk of the circuit court in which
211 the reorganized sewer district is incorporated. It then
212 shall be the duty of the court to amend the boundaries of
213 such district by a decree incorporating the real estate. A
214 certified copy of this amended decree including the real
215 estate in the district then shall be filed in the office of
216 the recorder, in the office of the county clerk of the
217 county in which the real estate is located, and in the
218 office of the secretary of state. The costs of this
219 proceeding shall be borne by the petitioning property owner.

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

241 13. Notwithstanding the provisions of subsection 12 of
242 this section to the contrary, when the board of trustees of
243 a reorganized common sewer district and the governing body
244 of a public water supply district as defined in chapter 247
245 mutually determine that a consolidation of their sewer and
246 water operations would better serve the area within their
247 boundaries, the board of trustees of the reorganized common
248 sewer district shall petition the circuit court of the
249 county containing the majority of the consolidated service
250 territory to amend the decree of incorporation to allow the
251 district to consolidate the public water supply district
252 into the reorganized common sewer district. The petition
253 shall include a plan of consolidation and shall be filed by
254 the board of trustees, and all proceedings shall be
255 conducted in the same manner as in an action for the initial
256 formation of the reorganized common sewer district, except
257 that no vote of the residents of the district shall be
258 required. All applicable provisions of this chapter shall
259 apply to the construction, operation, and maintenance of
260 water supply facilities in the same manner as they apply to
261 like functions relating to sewer treatment facilities.

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