

FIRST REGULAR SESSION
[TRULY AGREED TO AND FINALLY PASSED]

SENATE BILL NO. 497

98TH GENERAL ASSEMBLY

2015

2194L.01T

AN ACT

To repeal sections 67.950, 67.955, 393.015, and 644.145, RSMo, and to enact in lieu thereof five new sections relating to special purpose districts.

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

Section A. Sections 67.950, 67.955, 393.015, and 644.145, RSMo, are
2 repealed and five new sections enacted in lieu thereof, to be known as sections
3 67.950, 67.955, 393.015, 644.145, and 1, to read as follows:

67.950. **1.** Any special purpose district formed under the provisions of a
2 statute of this state requiring approval by the voters of the district, and for which
3 no specific procedure is provided to terminate or dissolve such a district, may be
4 dissolved [in the following manner:

5 (1) Upon the filing with the governing body of the district of a petition
6 containing the signatures of eight percent or more of the voters of the district or
7 upon the motion of a majority of the members of the governing body it shall
8 submit the question to the voters in the district using the same procedure and in
9 the same manner so far as practicable as is provided for the submission of the
10 question for forming the district.

11 (2)] **as provided in this section and section 67.955.**

12 **2. A petition describing the boundaries of the district sought to**
13 **be dissolved shall be filed with the clerk of the circuit court of the**
14 **county in which the subject district is located or, if the subject district**
15 **embraces lands in more than one county, with the clerk of the circuit**
16 **court of the county having the largest acreage within the boundaries**
17 **of the subject district. Such petition, in addition to such boundary**
18 **description, shall allege that further operation of the subject district**
19 **is inimical to the best interests of the inhabitants of the district and**

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

20 that the district should, in the interest of the public welfare and safety,
21 be dissolved, and such other information as may be useful to the court
22 in determining whether the petition should be granted and a decree of
23 dissolution entered. Such petition shall also include a detailed plan for
24 payment of all debt and obligations of the district at the time of
25 dissolution. Such petition shall be accompanied by a cash deposit of
26 fifty dollars as an advancement of the costs of the proceeding, and the
27 petition shall be signed by eight percent or more of the voters of the
28 district. The petition shall be verified by at least one of the signers
29 thereof and shall be served upon the governing board of the
30 district. The district shall be a party, and if the governing board in its
31 discretion determines that such dissolution is not in the public interest,
32 the district shall oppose such petition and pay all cost and expense
33 thereof.

34 3. Upon the filing of the petition, the petition shall be presented
35 to the circuit court and such court shall fix a date for a hearing on such
36 petition. The clerk of the court shall give notice of the filing of the
37 petition in some newspaper of general circulation in the county in
38 which the proceedings are pending, and if the district extends into any
39 other county or counties, such notice shall also be published in some
40 newspaper of general circulation in such other county or counties. The
41 notice shall contain a description of the subject boundary lines of the
42 district and the general purposes of the petition, and shall set forth the
43 date fixed for the hearing on the petition, which shall not be less than
44 seven nor more than twenty-one days after the date of the last
45 publication of the notice and shall be on some regular judicial day of
46 the court in which the petition is pending. Such notice shall be signed
47 by the clerk of the circuit court and shall be published in three
48 successive issues of a weekly newspaper or in twenty successive issues
49 of a daily newspaper.

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

52 5. Exceptions to the dissolution of a district may be made by any
53 voter or landowner of the district, and by the district as provided in
54 this section. Such exceptions shall be filed not less than five days prior
55 to the date set for the hearing on the petition. Such exceptions shall
56 specify the grounds upon which the exceptions are filed, and the court
57 shall take them into consideration in passing upon the petition and

58 shall also consider the evidence in support of the petition and in
59 support of the exceptions made. Unless petitioners prove that all debts
60 and financial obligations of the district can be paid in full upon
61 dissolution, the petition shall be dismissed at the cost of the
62 petitioners.

63 **6. Should the court find that it would not be to the public**
64 **interest to dissolve a district, the petition shall be dismissed at the**
65 **costs of the petitioners. If, however, the court should find in favor of**
66 **the petitioners, the court shall enter its interlocutory decree of**
67 **dissolution, which decree shall provide for the submission of the**
68 **question to the voters of the district. The decree of dissolution shall**
69 **not become final and conclusive until it has been submitted to the**
70 **voters residing within the boundaries described in such decree and**
71 **approved by a majority of the votes cast. The decree shall provide for**
72 **the submission of the question and shall fix the date thereof.**

73 **7. The question shall be submitted in substantially the following form:**
74 **Shall the district be dissolved?**

75 **[(3) If the question receives a majority of the votes cast the district shall**
76 **be dissolved for all purposes except the payment of outstanding bonded**
77 **indebtedness, if any]**

78 **8. The returns shall be certified by the election authority to the**
79 **circuit court having jurisdiction in the case. Upon receiving such**
80 **certification, the court shall enter its order canvassing the returns and**
81 **declaring the result of such election. If a majority of the votes cast on**
82 **the question by the qualified voters voting thereon are in favor of the**
83 **question, then the court shall, in such order declaring the result of the**
84 **election, enter a further order declaring the decree of dissolution to be**
85 **final and conclusive. If a majority of the votes cast on the question by**
86 **the qualified voters voting thereon are opposed to the question, then**
87 **the court shall enter a further order declaring such decree of**
88 **dissolution to be void and of no effect. No appeal shall lie from any of**
89 **such orders. In the event that the court declares the decree of**
90 **dissolution to be final as provided in this subsection, the clerk of the**
91 **circuit court shall file certified copies of such decree of dissolution and**
92 **of such final order with the secretary of state, the recorder of deeds of**
93 **the county or counties in which the district is located, and with the**
94 **clerk of the county commission of the county or counties in which the**
95 **district is located.**

96 **9. Notwithstanding any other provision of law in this section to**
97 **the contrary, no district shall be dissolved until all of its outstanding**
98 **indebtedness has been paid, and the court in its decree of dissolution**
99 **shall provide for the disposition of the remaining property of the**
100 **district.**

 67.955. **Subject to any decree of dissolution entered under section**
2 **67.950**, the governing body, upon passage of a proposition to dissolve, shall
3 dispose of all assets of the district and apply all proceeds to the payment of all
4 indebtedness of the district and if any funds are left after such liquidation they
5 shall be paid to the taxpayers of the district. Such payments shall be computed
6 on the ratio of each taxpayer's tax paid in to the total tax collected for the last
7 taxable year for which the district collected taxes. The liquidation, payments and
8 refunds shall be completed within one hundred twenty days after the date of the
9 submission of the question, and the district shall cease to exist; except that if
10 general obligation bonded indebtedness exists the district shall continue to exist
11 solely for the purpose of levying and collecting taxes to pay such indebtedness.

 393.015. 1. Notwithstanding any other provision of law to the contrary,
2 any sewer corporation, municipality or sewer district established under the
3 provisions of chapter 249 or 250, or sections 204.250 to 204.470, or any sewer
4 district created and organized pursuant to constitutional authority, may contract
5 with any water corporation, **any municipality providing water, or any**
6 **water districts established under chapter 247, which for purposes of**
7 **this section shall collectively be designated as a water provider**, to
8 terminate water services to any customer premises for nonpayment of a sewer
9 bill. No such termination of water service may occur until thirty days after the
10 sewer corporation, municipality or statutory sewer district or sewer district
11 created and organized pursuant to constitutional authority sends a written notice
12 to the customer, except that if the water [corporation] **provider** is performing
13 a combined water and sewer billing service for the sewer corporation,
14 municipality or sewer district, no additional notice or any additional waiting
15 period shall be required other than the notice and waiting period already used by
16 the water [corporation] **provider** to disconnect water service for nonpayment of
17 the water bill. Acting pursuant to a contract, the water [corporation] **provider**
18 shall discontinue water service until such time as the sewer charges and all
19 related costs of termination and reestablishment of sewer and water services are
20 paid by the customer.

21 2. A water [corporation] **provider** acting pursuant to a contract with a

22 sewer corporation, municipality or sewer district as provided in subsection 1 of
23 this section shall not be liable for damages related to termination of water
24 services unless such damage is caused by the negligence of such water
25 **[corporation] provider**, in which case the water **[corporation] provider** shall be
26 indemnified by the sewer corporation, municipality or sewer district. Unless
27 otherwise specified in the contract, all costs related to the termination and
28 reestablishment of services by the water **[corporation] provider** shall be
29 reimbursed by the sewer corporation, municipality, sewer district or sewer district
30 created and organized pursuant to constitutional authority.

644.145. 1. When issuing permits under this chapter that incorporate a
2 new requirement for discharges from publicly owned combined or separate
3 sanitary or storm sewer systems or **water or sewer** treatment works, or when
4 enforcing provisions of this chapter or the Federal Water Pollution Control Act,
5 33 U.S.C. Section 1251, et seq., pertaining to any portion of a publicly owned
6 combined or separate sanitary or storm sewer system or **water or sewer**
7 treatment works, the department of natural resources shall make a finding of
8 affordability on the costs to be incurred and the impact of any rate changes on
9 ratepayers upon which to base such permits and decisions, to the extent allowable
10 under this chapter and the Federal Water Pollution Control Act.

11 2. (1) The department of natural resources shall not be required under
12 this section to make a finding of affordability when:

13 (a) Issuing collection system extension permits;

14 (b) Issuing National Pollution Discharge Elimination System operating
15 permit renewals which include no new environmental requirements; or

16 (c) The permit applicant certifies that the applicable requirements are
17 affordable to implement or otherwise waives the requirement for an affordability
18 finding; however, at no time shall the department require that any applicant
19 certify, as a condition to approving any permit, administrative or civil action, that
20 a requirement, condition, or penalty is affordable.

21 (2) The exceptions provided under paragraph (c) of subdivision (1) of this
22 subsection do not apply when the community being served has less than three
23 thousand three hundred residents.

24 3. When used in this chapter and in standards, rules and regulations
25 promulgated pursuant to this chapter, the following words and phrases mean:

26 (1) "Affordability", with respect to payment of a utility bill, a measure of
27 whether an individual customer or household with an income equal to **[the] or**
28 lower **[of] than** the median household income for their community **[or the state**

29 of Missouri] can pay the bill without undue hardship or unreasonable sacrifice
30 in the essential lifestyle or spending patterns of the individual or household,
31 taking into consideration the criteria described in subsection 4 of this section;

32 (2) "Financial capability", the financial capability of a community to make
33 investments necessary to make water quality-related improvements;

34 (3) "Finding of affordability", a department statement as to whether an
35 individual or a household receiving as income an amount equal to [the] **or** lower
36 [of] **than** the median household income for the applicant community [or the state
37 of Missouri] would be required to make unreasonable sacrifices in [their] **the**
38 **individual's or the household's** essential lifestyle or spending patterns or
39 undergo hardships in order to make the projected monthly payments for sewer
40 services. The department shall make a statement that the proposed changes
41 meet the definition of affordable, or fail to meet the definition of affordable, or are
42 implemented as a federal mandate regardless of affordability.

43 4. The department of natural resources shall adopt procedures by which
44 it will make affordability findings that evaluate the affordability of permit
45 requirements and enforcement actions described in subsection 1 of this section,
46 and may begin implementing such procedures prior to promulgating
47 implementing regulations. The commission shall have the authority to
48 promulgate rules to implement this section pursuant to chapters 536 and 644,
49 and shall promulgate such rules as soon as practicable. Affordability findings
50 shall be based upon reasonably verifiable data and shall include an assessment
51 of affordability with respect to persons or entities affected. The department shall
52 offer the permittee an opportunity to review a draft affordability finding, and the
53 permittee may suggest changes and provide additional supporting information,
54 subject to subsection 6 of this section. The finding shall be based upon the
55 following criteria:

56 (1) A community's financial capability and ability to raise or secure
57 necessary funding;

58 (2) Affordability of pollution control options for the individuals or
59 households at or below the median household income level of the community;

60 (3) An evaluation of the overall costs and environmental benefits of the
61 control technologies;

62 (4) Inclusion of ongoing costs of operating and maintaining the existing
63 wastewater collection and treatment system, including payments on outstanding
64 debts for wastewater collection and treatment systems when calculating projected
65 rates;

66 (5) An inclusion of ways to reduce economic impacts on distressed
67 populations in the community, including but not limited to low- and fixed-income
68 populations. This requirement includes but is not limited to:

69 (a) Allowing adequate time in implementation schedules to mitigate
70 potential adverse impacts on distressed populations resulting from the costs of
71 the improvements and taking into consideration local community economic
72 considerations; and

73 (b) Allowing for reasonable accommodations for regulated entities when
74 inflexible standards and fines would impose a disproportionate financial hardship
75 in light of the environmental benefits to be gained;

76 (6) An assessment of other community investments and operating costs
77 relating to environmental improvements and public health protection;

78 (7) An assessment of factors set forth in the United States Environmental
79 Protection Agency's guidance, including but not limited to the "Combined Sewer
80 Overflow Guidance for Financial Capability Assessment and Schedule
81 Development" that may ease the cost burdens of implementing wet weather
82 control plans, including but not limited to small system considerations, the
83 attainability of water quality standards, and the development of wet weather
84 standards; and

85 (8) An assessment of any other relevant local community economic
86 condition.

87 5. Prescriptive formulas and measures used in determining financial
88 capability, affordability, and thresholds for expenditure, such as median
89 household income, should not be considered to be the only indicator of a
90 community's ability to implement control technology and shall be viewed in the
91 context of other economic conditions rather than as a threshold to be achieved.

92 6. Reasonable time spent preparing draft affordability findings, allowing
93 permittees to review draft affordability findings or draft permits, or revising draft
94 affordability findings, shall be allowed in addition to the department's deadlines
95 for making permitting decisions pursuant to section 644.051.

96 7. If the department of natural resources fails to make a finding of
97 affordability where required by this section, then the resulting permit or decision
98 shall be null, void and unenforceable.

99 8. The department of natural resources' findings under this section may
100 be appealed to the commission pursuant to subsection 6 of section 644.051.

101 9. The department shall file an annual report by the beginning of the
102 fiscal year with the governor, the speaker of the house of representatives, the

103 president pro tempore of the senate, and the chairs of the committees in both
104 houses having primary jurisdiction over natural resource issues showing at least
105 the following information on the findings of affordability completed in the
106 previous calendar year:

107 (1) The total number of findings of affordability issued by the department,
108 those categorized as affordable, those categorized as not meeting the definition
109 of affordable, and those implemented as a federal mandate regardless of
110 affordability;

111 (2) The average increase in sewer rates both in dollars and percentage for
112 all findings found to be affordable;

113 (3) The average increase in sewer rates as a percentage of median house
114 income in the communities for those findings determined to be affordable and a
115 separate calculation of average increases in sewer rates for those found not to
116 meet the definition of affordable;

117 (4) A list of all the permit holders receiving findings, and for each
118 permittee the following data taken from the finding of affordability shall be listed:

119 (a) Current and projected monthly residential sewer rates in dollars;

120 (b) Projected monthly residential sewer rates as a percentage of median
121 [house] **household** income;

122 (c) Percentage of households at or below the state poverty rate.

**Section 1. In any election for the board of directors of a
2 community improvement district as established in sections 67.1401 to
3 67.1571, no person shall cast more than one ballot.**

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