

FIRST REGULAR SESSION

# SENATE BILL NO. 587

91ST GENERAL ASSEMBLY

INTRODUCED BY SENATOR FOSTER.

Read 1st time February 28, 2001, and 1,000 copies ordered printed.

TERRY L. SPIELER, Secretary.

2157S.011

## AN ACT

To repeal sections 278.220, 278.240, 278.245, 278.250, 278.280, 278.290 and 278.300, RSMo 2000, relating to soil and water conservation districts, and to enact in lieu thereof seven new sections relating to the same subject.

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

Section A. Sections 278.220, 278.240, 278.245, 278.250, 278.280, 278.290 and 278.300, RSMo 2000, are repealed and seven new sections enacted in lieu thereof, to be known as sections 278.220, 278.240, 278.245, 278.250, 278.280, 278.290 and 278.300, to read as follows:

278.220. 1. If the proposed subdistrict lies in more than one soil and water conservation district, the petition may be presented to the board of soil and water district supervisors of any one of the districts, and the soil and water supervisors of all the districts shall act jointly as a board of soil and water district supervisors with respect **only** to [all matters concerning the subdistrict, including its formation] **matters including the formation, consolidation, expansion or disestablishment of the subdistrict**. They shall organize as a single board for such purposes and shall designate the chairman, vice chairman, and secretary-treasurer to serve for terms of one year. [After organizing, they may continue to meet as a single board for purposes of governing the subdistrict or they may meet as individual county boards and act, individually, on the minutes of meetings of the trustees of the subdistrict, as specified in section 278.240.] A subdistrict which lies in more than one soil and water conservation district shall be formed in the same manner and shall have the same powers and duties as a subdistrict formed in one soil and water conservation district.

2. Following the entry in the official minutes of the board or boards of soil and water district supervisors of the creation of the subdistrict, the soil and water supervisors shall certify this fact

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

on a separate form, authentic copies of which shall be recorded with the recorder of deeds of each county in which any portion of the subdistrict lies, and with the state soil and water districts commission.

278.240. 1. The board of soil and water conservation district supervisors of **the** soil and water conservation district in which the subdistrict is formed shall ~~[be the governing body of]~~ **act in an advisory capacity to** the subdistrict **board**. When a subdistrict lies in more than one soil and water conservation district, the combined boards of soil and water conservation district supervisors shall ~~[be the governing body]~~ **act in an advisory capacity to the subdistrict**.

2. Five ~~[persons living]~~ **landowners** within the subdistrict shall be elected to serve as trustees of the subdistrict. The trustees shall be elected by a majority vote of all landowners participating in the referendum for the establishment of the subdistrict, but the date of the election shall not fall upon the date of any regular political election held in the county. The ballot submitting the proposition to form the subdistrict shall be so worded as to clearly state that a tax, not to exceed forty cents on one hundred dollars valuation of all real estate within the subdistrict, will be authorized if the subdistrict is formed. In subdistricts formed after September 28, 1977, two trustees shall be elected for a term of six years, two shall be elected for a term of four years, and one shall be elected for a term of two years. Their successors shall be elected for terms of six years. In any district in existence on September 28, 1977, the three trustees holding office shall continue as trustees. At the next scheduled election within the subdistrict, two additional trustees shall be elected. One of the additional trustees shall be elected for a term of four years and one shall be elected for a term of six years. Each successor shall be elected for a term of six years. **In case of the death, loss of landowner standing within the subdistrict, or resignation from office of any elected subdistrict trustee, his or her successor to the unexpired term shall be appointed by the state soil and water districts commission and such appointee shall be a landowner of that subdistrict. A trustee may succeed himself or herself by reelection in this office.** The trustees shall elect one of their members as chairman and one of their members as secretary to serve for terms of two years.

3. ~~[If the governing board so designates the trustees may]~~ **The trustees shall** act in all matters pertaining to the subdistrict, except those concerning formation, consolidation, expansion or disestablishment of the subdistrict. ~~[All official actions taken by the trustees, however, shall be subject to the ratification of a majority of the governing boards of the individual soil and water conservation districts from which the subdistrict was formed. No actions taken by the trustees shall become effective until ratification of a majority of the governing boards has taken place. At the next regular meeting following any meeting of the trustees, each governing board may place on their agenda for approval or disapproval the actions taken by the trustees. Failure to take action by any board shall be construed as disapproval of all actions taken by the trustees. It shall be the responsibility of the secretary of the trustees to see that each governing board has a copy of the~~

minutes of each meeting held by the trustees at least two days prior to the next regular meetings of these boards. If the governing board shall decide to continue meeting as a single board for purposes of governing the subdistrict, the trustees shall serve as an advisory body only. The trustees shall be reimbursed for mileage expense incurred in the attendance of meetings of the governing body of the subdistrict and shall also be reimbursed for mileage expense incurred in the attendance of meetings of their own members. One trustee per meeting may be reimbursed for mileage expense incurred in the attendance of meetings of the governing boards of the individual soil and water conservation districts from which the subdistrict was formed.] **It shall be the responsibility of the secretary of the trustees to see that each soil and water district board included in the subdistrict is provided a copy of the minutes of each meeting held by the trustees. The trustees shall be reimbursed for expenses incurred relating to the business of the subdistrict.**

278.245. [The governing body of the subdistrict or the trustees of the subdistrict, when acting with the approval of the governing body as provided in section 278.240, shall have, in addition to other authority granted in other sections of this law, the following authority in governing subdistricts] **The trustees of the subdistrict shall have the following authority:**

(1) To acquire, by purchase, exchange, lease, gift, grant, bequest, devise, or otherwise, or through condemnation proceedings [in the manner provided in] **pursuant to** chapter 523, RSMo, such lands, easements, or rights-of-way as are needed to carry out any authorized purpose of the subdistrict; provided that notwithstanding any provision of law to the contrary, the power of eminent domain shall not be exercised over the protest of any landowner until it is established that acquisition of the land proposed to be condemned is necessary for the purposes of the subdistrict; and to sell, lease or otherwise dispose of any of its property or interest therein [in furtherance of the purposes and provisions of] **pursuant to** sections 278.160 to 278.300;

(2) To construct, repair, enlarge, improve, operate, and maintain such works of improvement as may be necessary for the performance of any of the operations authorized by sections 278.160 to 278.300;

(3) To borrow money and to execute promissory notes and other evidences of debt in connection therewith for payment of the costs and expenses or for carrying out any authorized purpose of such subdistrict, and if promissory notes are issued, to execute such mortgages on any property owned by such district, or assign or pledge such revenues or assessments of such subdistrict as may be required by the lender as security for the repayment of the loan; and to issue, negotiate, and sell its bonds [as provided in] **pursuant to** section 278.280;

(4) To levy an annual tax and organization tax on the real property within the subdistrict subject to the limitations provided in section 278.250 for payment of the costs for carrying out any authorized purpose of such subdistrict;

(5) To make assessments on the real property within the subdistrict for special benefits to

such real property accruing as a result of the construction of any works of improvement by the subdistrict.

278.250. 1. In order to facilitate the preliminary work of the subdistrict [the governing body of the subdistrict or], the trustees of the subdistrict[, when acting with the approval of the governing body as provided in section 278.240,] may levy an organization tax [of] not to exceed forty cents per one hundred dollars of assessed valuation of all real estate within the subdistrict, the proceeds of which may be used for organization and administration expenses of the subdistrict, the acquisition of real and personal property, including easements for rights-of-way, necessary to carry out the purposes of the subdistrict. This levy may be made one time only. The organization tax may be imposed [as provided for in] **pursuant to** subsections 4 and 5 of this section.

2. After the [governing body or the] trustees of the subdistrict[, when acting with the approval of the governing body as provided in section 278.240,] have obtained agreements to carry out recommended soil conservation measures and proper farm plans from owners of not less than sixty-five percent of the lands situated in the subdistrict, an annual tax may be imposed for construction, repair, alteration, maintenance and operation of the present and future works of improvement within the boundaries of the subdistrict in order to participate in funds from federal sources appropriated for watershed protection and flood prevention. The annual tax may be imposed as provided for in subsections 4 and 5 of this section.

3. Within the first quarter of each calendar year, the trustees for the subdistrict shall prepare an itemized budget of the funds needed for administration of the subdistrict and for construction, operation and maintenance of works of improvement for the ensuing fiscal year. The budget shall be subject to the approval of the [governing body of the] subdistrict [as provided in] **trustees pursuant to** section 278.240.

4. The [governing body or the] trustees of the subdistrict, [when acting with the approval of the governing body as provided in] **pursuant to** section 278.240, shall make the necessary levy on the assessed valuation of all real estate within the boundaries of the subdistrict to raise the needed amounts, but in no event shall the levy exceed forty cents on each one hundred dollars of assessed valuation per annum and, on or before the first day of September of each year, shall certify the rate of levy to the county commission of the county or counties within which the subdistrict is located with directions that at the time and in the same manner required by law for the levy of taxes for county purposes the county commission shall levy a tax at the rate so fixed and determined upon the assessed valuation of all real estate within the subdistrict, in addition to such other taxes as are levied by the county commission.

5. The body having authority to levy taxes within the county shall levy the taxes provided in this law, and all officials charged with the duty of collecting taxes shall collect the taxes at the time and in the form and manner and with like interest and penalties as other taxes are collected; computation shall be made on the regular tax bills, and when collected shall pay the same to the

subdistrict ordering its levy and collection or entitled to the same, and the payment of such collections shall be made monthly to the treasurer of the subdistrict. The proceeds shall be kept in a separate account by the treasurer of the subdistrict and identified by the official name of the subdistrict in which the levy was made. Expenditures from the fund shall be made on requisition of the chairman and secretary of the [governing body of the subdistrict or, alternately, on requisition of the chairman of the governing body of the subdistrict and the chairman of the trustees of the] subdistrict **board of trustees**.

6. All taxes levied under this law, together with interest thereon and penalties for default in payment thereof, and all costs of collecting the same, shall, until paid, constitute a perpetual lien on and against the property taxed, and such lien shall be on a parity with the tax lien of general taxes, and no sale of such property to enforce any general tax or other lien shall extinguish the perpetual lien of subdistrict taxes.

7. If the taxes levied are not paid as provided in this section, then the delinquent real property shall be sold at the regular tax sale for the payment of the taxes, interest and penalties, in the manner provided by the statutes of the state of Missouri for selling property for the nonpayment of general taxes. If there are no bids at the tax sale for the property so offered, the property shall be struck off to the county or other agency provided by law, and the county or agency shall account to the district in the same manner as provided by law for accounting for school, town, and city taxes.

8. For purposes of section 22 of article X of the Constitution of Missouri, the tax authorized in the ballot submitting the proposition to form the subdistrict under section 278.240, if approved by a majority of the voters on or prior to November 4, 1980, shall be deemed the current levy authorized by law on November 4, 1980, if on that date a levy was not actually imposed or was imposed in a lesser amount. This tax shall also be considered as the 1984 tax for purposes of section 137.073, RSMo, in the event no levy was imposed by the subdistrict for that year.

278.280. 1. When a plan of work is approved [the governing body or], the trustees of the subdistrict, [when acting with the approval of the governing body] as provided in section 278.240, shall then by resolution propose that the cost of all works of improvement contemplated in the plan be paid either by a general levy against all real estate in the subdistrict, subject to the limitations of section 278.250, or that such cost be paid by special assessment against lands within the subdistrict to be benefited by the installation of the proposed works of improvement, or that such cost be paid by both such general levy and special assessment stating the portion to be paid by each method.

2. If the resolution of financing provides that all or any part of the cost of the works of improvement is to be paid by special assessment of benefits [the governing body or] the trustees of the subdistrict **shall**, [when acting with the approval of the governing body] as provided in section 278.240, [shall] appoint three appraisers, who shall be residents of the state of Missouri, and who

shall not be landowners in such subdistrict, who shall recommend apportionment of the special assessment to the tracts of land which will receive benefits from the installation of the works of improvement proposed in the plan of work. The appraisers shall have access to all available engineering reports and data pertaining to the works contemplated and may request additional legal counsel or engineering data from a registered professional engineer as found necessary to carry out their duties.

3. The appraisers shall proceed to view the premises and determine the value of all land or other property within or without the subdistrict, to be acquired and used for rights-of-way or other works set out in the plan of work; they shall assess the amount of benefits, and the amount of damage if any, that will accrue to each governmental lot, forty-acre tract or other subdivision of land according to ownership, railroad and other rights-of-way, railroad roadways, and other property from carrying out and putting into effect the plan of work heretofore adopted, and shall make written reports of their findings to the [governing board] **trustees** of the subdistrict. Each appraiser so appointed shall be paid [fifteen dollars per day] for his **or her** services and necessary expenses [in addition thereto].

4. Upon receiving the report from the appraisers, [the governing body or] the trustees of the subdistrict **shall**, [when acting with the approval of the governing body as provided in] **pursuant to** section 278.240, [shall] prepare a resolution which shall contain a list of the tracts of land found to be benefited and the amount of assessment to be levied against each such tract, except that no such assessment against any tract of land shall exceed the estimated benefits to such land by such project. Such tracts of land shall be legally described and the names of the owners thereof shall be set forth beside the description of each tract so listed. After adopting such resolution [the governing body or], the trustees of the subdistrict **shall**, [when acting with the approval of the governing body as provided in] **pursuant to** section 278.240, [shall] fix a time and place for hearing any complaint that may be made as to the benefit to any tract of land appraised, notice of which hearing shall be given by the secretary by publication [as in] **pursuant to** section 278.190. The board **of trustees** at the hearing may alter the benefits to any tract if, in its judgment, the same has been appraised too high or too low. The hearing shall be conducted in the manner set forth in section 278.200. The [governing body or the] trustees of the subdistrict **shall**, [when acting with the approval of the governing body as provided in] **pursuant to** section 278.240, [shall] immediately after the hearing pass a resolution fixing the benefit assessment as to each tract of land.

5. After the resolution fixing the benefit assessment has been adopted the [governing body or the] trustees of the subdistrict **shall**, [when acting with the approval of the governing body as provided in] **pursuant to** section 278.240, [shall] submit the proposal for collection of such assessed benefits to the owners of the lands so assessed for approval and if bonds are to be issued the amount of the issue so proposed, the rate of interest, and the amount of any necessary tax levy in

excess of the amount authorized in section 278.250. If two-thirds of the owners of such lands voting favor the proposal as submitted, it shall be adopted. The provisions of sections 278.190 to 278.210 as to notice and procedure shall apply to the referendum held **[under] pursuant to** this section.

6. The **[governing body or the]** trustees of the subdistrict **shall**, **[when acting with the approval of the governing body as provided in] pursuant to** section 278.240, **[shall]** make the necessary general levy against all real estate in the subdistrict and the special assessment against lands within the subdistrict to be benefited by the improvement and shall certify the rate of levy and the amount of the special assessment to the county commission of the county or counties in which the subdistrict is located with directions that at the time and in the same manner required by law for the levy of taxes for county purposes the county commission shall levy a tax at the rate so fixed and determined upon the assessed valuation of all real estate within the subdistrict and shall levy the amount of the special assessment, in addition to such other taxes as are levied by the county commission.

7. The bond issue, authorized by this section in whole or part, may be offered for sale to the **[Farmers Home Administration] United States Department of Agriculture's Rural Development** or other federal agency without public offering or the securing of competitive bids on such bond offering.

278.290. 1. After a subdistrict has been organized for more than five years and **[said] such** subdistrict does not have any outstanding bonds, has not constructed or contracted to construct any works of improvement, nor incurred any continuing obligations for maintenance and operation of any works of improvement or if any works of improvement have been constructed, if there are no bonds outstanding, and an agency of the United States government or the state of Missouri or a county or municipal corporation of this state has made arrangements satisfactory to the Secretary of Agriculture and the state soil and water districts commission to assume responsibility for operating and maintaining such improvement, not less than fifty percent of the landowners of the subdistrict may petition the **[governing body] soil and water district board** of the subdistrict to call for and conduct a referendum upon the disestablishment of the subdistrict. If sixty-five percent of the landowners voting in referendum do vote in favor of the disestablishment of the subdistrict, the **[governing body] soil and water district board** shall declare the subdistrict to be disestablished; however, prior to any such declaration the **[governing body] soil and water district board** shall pay or make arrangements to pay any outstanding indebtedness. The provisions of sections 278.190, 278.200 and 278.210 as to notice, qualification of voters and manner of holding the referendum in organizing a subdistrict to the extent practicable shall apply to the referendum held **[under] pursuant to** this section.

2. Following the entry in the official minutes of the board or boards of soil and water conservation district supervisors of the disestablishment of the subdistrict, the soil and water

conservation district supervisors shall certify this fact on a separate form, authentic copies of which shall be recorded with the recorder of deeds of each county in which any portion of the subdistrict lies, and with the state soil and water districts commission.

3. Whenever a subdistrict is declared to be disestablished, the respective boards of supervisors of the soil and water conservation districts in which the subdistrict was formed shall take charge of all property and funds of the subdistrict. After all property has been sold and the obligations of the subdistrict are met, any remaining funds shall be turned over to the county commissions of the respective counties.

278.300. If a soil and water conservation district is disestablished [as provided by] **pursuant to** section 278.150, the state soil and water districts commission shall [become the governing body] **have the same responsibilities as the soil and water conservation district with respect to formation, consolidation and disestablishment** of any subdistrict or portion thereof, organized within the boundaries of such soil and water conservation districts [and shall be entitled to all benefits and powers heretofore granted to such governing body by sections 278.160 to 278.300, including the levy and collection of taxes]. **In all other matters after a district is disestablished, the commission shall act in an advisory capacity to the subdistrict board in lieu of the soil and water district board.**

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