

SECOND REGULAR SESSION

SENATE BILL NO. 1054

91ST GENERAL ASSEMBLY

INTRODUCED BY SENATOR STEELMAN.

Read 1st time January 29, 2002, and 1,000 copies ordered printed.

TERRY L. SPIELER, Secretary.

4151S.011

AN ACT

To repeal sections 204.250, 204.251, 204.252, 204.253, 204.254, 204.255, 204.256, 204.257, 204.260, 204.270, 204.280, 204.310, 204.331, 204.332, 204.350, 204.360, 204.440, 204.450, 204.455, 204.565, 204.567, 204.569, 204.571, 204.573, 393.015 and 393.847, RSMo, relating to sewer districts, and to enact in lieu thereof twenty-four new sections relating to the same subject.

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

Section A. Sections 204.250, 204.251, 204.252, 204.253, 204.254, 204.255, 204.256, 204.257, 204.260, 204.270, 204.280, 204.310, 204.331, 204.332, 204.350, 204.360, 204.440, 204.450, 204.455, 204.565, 204.567, 204.569, 204.571, 204.573, 393.015 and 393.847, RSMo, are repealed and twenty-four new sections enacted in lieu thereof, to be known as sections 204.250, 204.350, 204.360, 204.450, 204.455, 393.015, 393.847, 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16 and 17, to read as follows:

204.250. 1. [If the construction and maintenance of a common system of trunk sewers and sewage treatment plants is necessary to secure proper sanitary conditions for the preservation of public health in a natural drainage area the major portion of which lies within a county of the first class containing all or part of a city having a population of four hundred fifty thousand or more, or in a county of the first class not having a charter form of government, or in a county of the second, third or fourth class, and which natural drainage area contains all or portions of several drainage basins, several municipalities or sewer districts, and if a common sewer district encompassing the entire area would be eligible for federal aid and assistance under the provisions of Title 33, Section 1151 et seq. of the United States Code Annotated, as now or as may hereafter be amended, the area may be established and incorporated as a common sewer

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

district under sections 204.250 to 204.470 in the following manner: The county commission, or in charter counties, the county executive with the concurrence by resolution of the county legislature, of the county within which the major portion of the area lies may petition the circuit court having jurisdiction over the major portion for the appointment of commissioners as herein provided, and to take further action as may be necessary for the submission to the legal voters residing in the area of the question whether the area shall be organized and incorporated as a common sewer district under sections 204.250 to 204.470.

2. The petition shall set forth a description in general terms of the territory to be embraced in, suggest a name for the proposed common sewer district and state the aim and purposes for which the district is created.

3. Notwithstanding any provisions of law to the contrary, if a sanitary sewage disposal or treatment system is necessary for any number of buildings used solely or primarily for residential or commercial purposes which are situated in such geographical proximity and manner to one another that the creation of a sewage disposal or treatment system is feasible, and such buildings are situated in or are in geographical proximity to an existing common sewer district formed pursuant to this chapter, and if sanitary sewage disposal or treatment services are not otherwise available for service to such buildings, regardless of whether the buildings lie in a natural drainage area or natural drainage basin, such area may be established as a common sewer subdistrict of an existing common sewer district formed pursuant to the provisions of this chapter by complying with the procedures set forth in subsections 4 to 7 of this section.

4. The circuit court of the circuit proposing to create a sewer subdistrict pursuant to subsection 3 of this section may, by order of the court, for good cause shown, submit the question of creating such subdistrict to all owners of record of all real property within such proposed subdistrict at a general or special election called for that purpose. Such order shall set forth the project name for the proposed subdistrict, the general nature of the proposed subdistrict, the estimated cost of the sewer improvements for such subdistrict, the boundaries of the proposed subdistrict to be assessed for sewer improvements, and the proposed method or methods of assessment. The court may thereafter create a sewer subdistrict of an existing common sewer district formed pursuant to this chapter when the question of creating such subdistrict has been approved by the vote of the percentage of electors within such subdistrict voting thereon that is equal to the percentage of voter approval required for the issuance of general obligation bonds of the city or county wherein such subdistrict is located under article VI, section 26 of the constitution of this state. The notice of election containing the question of creating a sewer subdistrict shall contain the project name for the proposed subdistrict, the general nature of the proposed subdistrict, the estimated cost of the sewer improvements for such subdistrict, the boundaries of the proposed subdistrict to be assessed for sewer improvements, the proposed method or methods of assessment, and a statement that the final cost of such sewer

improvements assessed against property within the subdistrict and the amount of general obligation bonds issued therefor shall not exceed the estimated cost of such sewer improvements, as stated in such notice, by more than twenty-five percent. The ballot upon which the question of creating a sewer subdistrict is submitted to the qualified voters residing within the proposed subdistrict shall contain a question in substantially the following form:

Shall the Circuit Court be authorized to create a sewer subdistrict proposed for the (common sewer district name) and authorize the common sewer district to incur indebtedness and issue general obligation bonds to pay for all or part of the cost of the creation and maintenance of such subdistrict, the cost of all indebtedness so incurred to be assessed by the (common sewer district name) on the property within the subdistrict?

5. As an alternative to the procedure described in subsection 4 of this section, the circuit court of the circuit may create such a sewer subdistrict when a proper petition has been signed by the owners of record of at least two-thirds by area of all real property located within such proposed subdistrict. The petition, in order to become effective, shall be filed with the circuit court. A proper petition for the creation of a sewer subdistrict shall set forth the proposed subdistrict name, the general nature of the proposed subdistrict, the estimated cost of the sewer improvements for such subdistrict, the boundaries of the proposed subdistrict to be assessed for sewer improvements, the proposed method or methods of assessment, a notice that the names of the signers may not be withdrawn later than seven days after the petition is filed with the court, and a notice that the final cost of such assessments against property within the subdistrict and the amount of general obligation bonds issued therefor shall not exceed the estimated cost of sewer improvements, as stated in such petition, by more than twenty-five percent.

6. Upon receiving the requisite voter approval at an election or upon the filing of a proper petition with the court, the court may by order determine the advisability of the subdistrict and may order that the subdistrict be established and that preliminary plans and specifications for the subdistrict be made. Such order shall state and make findings as to the subdistrict name, the nature of the subdistrict, the estimated cost of the sewer improvements for such subdistrict, the boundaries of the subdistrict to be assessed for sewer improvements, the proposed method or methods of assessment, and shall also state that the final cost of such assessments against the property within the subdistrict and the amount of general obligation bonds issued therefor shall not, without a new election or petition, exceed the estimated cost of such sewer improvements by more than twenty-five percent.

7. The boundaries of the proposed subdistrict shall be described by metes and bounds, streets or other sufficiently specific description. The area of the subdistrict finally determined to be assessed may be less than, but shall not exceed, the total area comprising such district.]

Proceedings for the formation of a common sewer district shall be substantially as follows: a petition in duplicate describing the proposed boundaries of the 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 formation of the district, the probable cost of the improvement, an approximation of the assessed valuation of taxable property within the district and such other information as may be useful to the court in determining whether or not the petition should be granted and a decree of incorporation entered. Such petition shall be accompanied by a cash deposit of fifty dollars as an advancement of the costs of the proceeding, and the petition shall be signed by not less than fifty voters within the proposed district and shall pray for the incorporation of the territory therein described into a common sewer district. The petition shall be verified by at least one of the signers thereof.

2. Upon the filing of the petition, the same shall be presented to the circuit court, and such court shall fix a date for a hearing on such petition, as herein provided for. Thereupon the clerk of the court shall give notice of the filing of the petition in some newspaper of general circulation in the county in which the proceedings are pending, and if the district extends into any other county or counties, such notice shall also be published in some newspaper of general circulation in such other county or counties. The notice shall contain a description of the proposed boundary lines of the district and the general purposes of the petition, and shall set forth the date fixed for the hearing on the petition, which shall not be less than fifteen nor more than twenty-one days after the date of the last publication of the notice and shall be on some regular judicial day of the court wherein the petition is pending. Such notice shall be signed by the clerk of the circuit court and shall be published in three successive issues of a weekly newspaper or in twenty successive issues of a daily newspaper.

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

4. Exceptions to the formation of a district, or to the boundaries outlined in the petition for the incorporation thereof, may be made by any voter of the proposed district; provided, such exceptions are filed not less than five days prior to the date set for the hearing on the petition. Such exceptions shall specify the grounds upon which the exceptions are being made. If any such exceptions be filed, the court shall take them into consideration in passing upon the petition and shall also consider the

evidence in support of the petition and in support of the exceptions made. Should the court find that the petition should be granted but that changes should be made in the boundary lines, it shall make such changes in the boundary lines as set forth in the petition as to the court may deem proper, and thereupon enter its decree of incorporation, with such boundaries as changed.

5. Should the court find that it would not be to the public interest to form such a district, the petition shall be dismissed at the costs of the petitioners. If, however, the court should find in favor of the formation of such district, the court shall enter its decree of incorporation, setting forth the boundaries of the proposed district as determined by the court pursuant to the aforesaid hearing. The decree shall further contain an appointment of five voters from the district, to constitute the first board of directors of the district. The court shall designate such directors to staggered terms from one to five years such that one director is appointed or elected each year. The directors thus appointed by the court shall serve for the terms thus designated and until their successors shall have been appointed or elected as herein provided. The decree shall further designate the name of the district by which it shall hereafter be officially known.

6. The decree of incorporation shall not become final and conclusive until it shall have been submitted to the voters residing within the boundaries described in such decree and until it shall have been assented to by a majority of the voters as provided in subsection 9 of this section or by two-thirds of the voters of the district voting on the proposition. The decree shall provide for the submission of the question and shall fix the date thereof. The returns shall be certified by the judges and clerks of election to the circuit court having jurisdiction in the case and the court shall thereupon enter its order canvassing the returns and declaring the result of such election.

7. If, upon canvass and declaration, it is found and determined that the question shall have been assented to by a majority of two-thirds of the voters of the district voting on such proposition, then the court shall, in such order declaring the result of the election, enter a further order declaring the decree of incorporation to be final and conclusive. In the event, however, that the court should find that the question had not been assented to by the majority required above, the court shall enter a further order declaring such decree of incorporation to be void and of no effect. No appeal shall lie from any such decree of incorporation nor from any of the aforesaid orders. In the event that the court declares the decree of incorporation to be final, as herein provided for, the clerk of the circuit court shall file certified copies of such decree of incorporation and of such final order with the secretary of state of

the state of Missouri, and with the recorder of deeds of the county or counties in which the district is situated and with the clerk of the county commission of the county or counties in which the district is situated.

8. The costs incurred in the formation of the district shall be taxed to the district, if the district be incorporated otherwise against the petitioners.

9. If petitioners seeking formation of a common sewer district specify in their petition that the district to be organized shall be organized without authority to issue general obligation bonds, then the decrees relating to the formation of the district shall recite that the district shall not have authority to issue general obligation bonds and the vote required for such a decree of incorporation to become final and conclusive shall be a simple majority of the voters of the district voting on such proposition.

204.350. 1. The board of trustees for the district shall let contracts for all work to be done, excepting in case of repairs or emergencies requiring prompt attention, in the construction of trunk sewers and sewage treatment plants under the authority of sections 204.250 to 204.470, the expense of which will exceed [five hundred] **twenty-five thousand** dollars, to the lowest responsible bidder therefor, upon not less than twenty days' notice of the letting, given by publication in a newspaper of general circulation in the district, and in the discretion of the board, in one or more newspapers of general circulation among contractors. The board shall have the power and authority to reject any and all bids and readvertise the work.

2. The board of trustees[, subject to the concurrence of the advisory board established by sections 204.250 to 204.470,] shall also have the power to enter into agreements with persons, firms or corporations [of known standing and competence for the execution and preparation of the surveys, maps and plans needed and required by the board, and also for the laying out and superintendence of work to be constructed under the authority of sections 204.250 to 204.470, but no single agreement so made shall cover more than one piece or class of work] **providing professional services required of the board and the board shall adopt policies for procuring the services of such professionals. The provisions of sections 8.285 to 8.291, RSMo, shall be applicable to the services of architects, engineers and land surveyors unless the board of trustees adopts a formal procedure for the procurement of such services.**

204.360. The cost of any common sewer district of acquiring, constructing, improving or extending a sewerage system may be met:

(1) Through the expenditures by the sewer district of any funds available for that purpose, **including temporary or interim financing funds obtained through any federal or state loan program or from a local lending institution;**

(2) From any other funds which may be obtained under any law of the state or of the

United States or from any county or municipality for that purpose; or

(3) From the proceeds of revenue bonds of the common sewer district, payable solely from the revenues to be derived from the operation of such sewerage system or from any combination of all the methods of providing funds.

204.450. If, after the preparation of a plan for a **sanitary sewer** system [of trunk sewers and treatment facilities], the voters of the common sewer district defeat the proposition for the issuance of revenue bonds to fund the construction of the system, the board of trustees may levy and assess upon all real property within the district a special tax at such rate as shall be necessary to pay the cost incurred in the proceedings incorporating the district, the preparation of the plan for the [trunk sewer and treatment] **sanitary sewer** system, the conduct of the elections in the district and the necessary expenses of the district from the time of its incorporation until the bond election. The special tax shall be levied by the county commission, county commissions, or county legislature and shall be collected and enforced by the same officers and in the same manner as provided for state and county taxes. If the voters of the common sewer district defeat a proposition for the issuance of revenue bonds, successive revenue bond issue elections may be held and the same proposition or different propositions may be submitted to the voters in accordance with section 204.370.

204.455. 1. Any user charges, connection fees, or other charges levied by the sewer district shall be due at such time or times as specified by the board of trustees, and shall, if not paid by the due date, become delinquent and shall bear interest from the date of delinquency until paid. If such charges become delinquent they shall be a lien upon the land charged, upon the board of trustees filing with the recorder of deeds in the county where the land is situated a notice of delinquency. The board of trustees shall file with the recorder of deeds a similar notice **of satisfaction of debt** when the delinquent amounts, plus interest and any recording fees or attorneys' fees, have been paid in full. The lien hereby created may be enforced by suit [or foreclosure] **in the circuit court having jurisdiction against the property subject to the lien for judicial foreclosure and sale by special execution; such suit may include a request for judgment against the persons responsible for payment of such delinquency as well as the person or persons owning the property to which services were provided, if different, including post-sale deficiency, and as a part of the relief, may include award of the district's reasonable attorney's fees, court costs and other expenses reasonably incurred by the district for collection.**

2. For purposes of this section, the term "board of trustees" shall include, but is not limited to, the board of trustees established in subsection 2 of section 204.300.

393.015. 1. Notwithstanding any other provision of law to the contrary, any **water corporation, municipality or public water supply district established pursuant to chapter 247, RSMo, must disconnect a customer's water service lines from the**

provider's water service lines upon request from any sewer corporation, municipality or sewer district established [under] **pursuant to** the provisions of chapter 249 or 250, RSMo, or sections 204.250 to 204.470, RSMo, or any sewer district created and organized pursuant to constitutional authority[, may contract with any water corporation, municipality, or public water supply district established under chapter 247, RSMo, to terminate water services to any customer premises for nonpayment of a sewer bill] **for nonpayment of a sewer bill, and said water corporation, municipality or public water supply district must comply with such request.** No such termination of water service may occur until thirty days after the sewer corporation, municipality or statutory sewer district or sewer district created and organized pursuant to constitutional authority sends a written notice to the customer by certified mail, except that if the water corporation, municipality or public water supply district is performing a combined water and sewer billing service for the sewer corporation, municipality or sewer district, no additional notice or any additional waiting period shall be required other than the notice and waiting period already used by the water corporation, municipality or public water supply district to disconnect water service for nonpayment of the water bill. [Acting pursuant to a contract,] The water corporation, municipality or public water supply district shall discontinue water service until such time as the sewer charges and all related costs of termination and reestablishment of sewer and water services, **including reconnection fees,** are paid by the customer.

2. A water corporation, municipality, or public water supply district acting pursuant to a [contract with] **request from** a sewer corporation, municipality or sewer district as provided in subsection 1 of this section shall **not** be liable for damages related to termination of water services [unless such damage is caused by the negligence of such water corporation, municipality, or public water supply district, in which case the water corporation, municipality, or public water supply district shall be indemnified by the sewer corporation, municipality or sewer district. Unless otherwise specified in the contract,]. All costs related to the termination and reestablishment of services by the water corporation, municipality or public water supply district shall be reimbursed by the sewer corporation, municipality, sewer district or sewer district created and organized pursuant to constitutional authority.

393.847. 1. Every nonprofit sewer company constructing, maintaining and operating its wastewater lines and treatment facilities shall construct, maintain and operate such lines and facilities in conformity with the rules and regulations relating to the manner and methods of construction, maintenance and operation and as to safety of the public with other lines and facilities now or hereafter from time to time prescribed by the department of natural resources for the construction, maintenance and operation of such lines or systems. The jurisdiction, supervision, powers and duties of the department of natural resources shall extend to every such nonprofit sewer company [so far as it concerns the construction, maintenance and operation of the physical equipment of such company to the extent of providing for the safety of employees

and the general public] **and every nonprofit sewer company shall be supervised and regulated by the department of natural resources to the same extent and in the same manner as any other nonprofit corporation engaged in whole or part in the collection or treatment of wastewater.**

2. The public service commission shall not have jurisdiction over the construction, maintenance or operation of the wastewater facilities, service, rates, financing, accounting or management of any nonprofit sewer company.

Section 1. 1. Except as may be altered pursuant to the provisions of section 2 of this act, a common sewer district established under this chapter shall constitute the sole and continuing authority for the provision of the sewage treatment services within its corporate boundaries.

2. No public sewer district shall later be formed pursuant to the provision of this chapter or chapter 249, RSMo, the boundaries of which shall encroach upon the corporate boundaries of any common sewer district then existing, nor shall any public sewer district extend sewage treatment services within the boundaries of another.

3. No private utility entity organized for the purpose of providing sewage treatment services shall operate or extend such services within the corporate boundaries of a common sewer district, other provisions of law pertaining to private utilities not withstanding.

4. Nothing contained herein shall be construed to eliminate, dissolve or alter the corporate boundaries or existence of any public sewer district existing as of August 28, 2002, nor shall the provisions of this section be construed to eliminate, dissolve or alter any public utility tariffs existing as of August 28, 2002.

Section 2. 1. Whenever all or any part of the territory of any common sewer district organized pursuant to sections 204.250 to 204.470, RSMo, is or has been included by annexation within the corporate limits of a municipality, the board of directors of any such district shall have the power to contract with such municipality for operating the sewage system within such annexed area pursuant to section 250.010, RSMo, or the board of directors may, subject to the provisions of sections 3 and 4 of this act, lease, contract to sell, sell or convey, any or all of its sewer mains, plant or equipment located within such annexed area to such municipality and such contract shall also provide for the detachment and exclusion from such common sewer district of that part thereof located within the corporate limits of such city; provided, that in case of sale or conveyance, all bonds of the district, whether general obligation bonds constituting a lien on the property located within the district, or special obligation or revenue bonds constituting a lien on the income and revenues arising from the operation of the sewer system:

(1) Are paid in full; or

(2) A sum sufficient to pay all of such bonds together with interest accrued or to accrue thereon, together with other items of expense provided in such bonds, is deposited with the fiscal agent named in the bonds for the purpose of full payment; or

(3) Such city has entered into a firm commitment to pay in lump sum or installments not less than that proportion of the sum of all existing liquidated obligations and of all unpaid revenue bonds, with interest thereon to date, of such common sewer district, as the assessed valuation of the real and tangible personal property within the area annexed bears to the assessed valuation of all the real and tangible personal property within the entire area of such district, according to the official county assessment of such property as to December thirty-first of the calendar year next preceding; or

(4) Consent in writing is obtained from the holders of all such bonds.

2. In any such case in which the board of directors by agreement, leases, contracts to sell, sells or conveys the property of the district within the annexed area to such a municipality, an application shall be made by one of the contracting parties to the circuit court originally incorporating such district, which application shall set forth a description of the annexed area, that part thereof sought to be detached and excluded, a copy of the agreement entered into by the parties, the facts concerning bondholders and their rights, and requesting an order of the court approving or disapproving such contract.

3. Upon the filing of such application, the court shall set a time for the hearing thereof and shall order a public notice setting forth the nature of the application, the annexed area affected and sought to be detached and excluded, a description of the property within the annexed area leased, contracted to be sold, sold or conveyed, and the time and place of such hearing, to be published for three weeks consecutively, in a newspaper published in the county in which the application is pending, the last publication to be not more than five days before the date set for hearing.

4. If the court finds that the agreement protects the bondholders' rights and provides for the rendering of necessary sewer service in the territory embracing the district, then such agreement shall be fully effective upon approval by the court. Such decree shall also thereupon vest in said city the absolute title, free and clear of all liens or encumbrances of every kind and character, to all tangible real and personal property of such common sewer district located within the part of such district situated within the corporate limits of such city, with full power in such city to use and dispose of such tangible real and personal property as it deems best in the public interest.

Section 3. 1. Whenever any city owning a sewage or sewer collection system extends its corporate limits to include any part of the area in a common sewer district, and the city and the board of directors of the district are unable to agree upon a service, lease or sale agreement, or are unable to proceed pursuant to section 2 of this act, then upon the expiration of ninety days after the effective date of the extension of the city limits, that part of the area of the district included within the corporate limits of the city may be detached and excluded from the district in the following manner:

(1) A petition to detach and exclude that part of the common sewer district lying within the corporate limits of the city as such limits have been extended, signed by not less than twenty-five voters within the sewer district, shall be filed in the circuit court of the county in which the district was originally organized;

(2) The court, being satisfied as to the sufficiency of the petition, shall call a special election of the voters of the district at which election the proposal to detach and exclude the part of the district lying within the corporate limits of the city shall be submitted to the voters in the entire district for a vote thereon. The election shall be conducted within the district by the election authority;

(3) The ballot shall briefly state the question to be voted on;

(4) In order to approve the detachment and exclusion of any part of the area in a common sewer district, the proposal shall require the approval of not less than a majority of the voters voting thereon;

(5) The election authorities shall thereafter promptly certify the result to the circuit court. The court, acting as a court of equity, shall thereupon without delay enter a decree detaching and excluding the area in question located within the corporate limits of the city from the sewer district; except that before the decree detaching and excluding the area becomes final or effective, the city shall show to the court that it has assumed and agreed to pay in lump sum or in installments not less than that proportion of the sum of all existing liquidated general obligations and of all unpaid revenue bonds and interest thereon to date, of the sewer district as the assessed valuation of the real and tangible personal property within the area sought to be detached and excluded bears to the assessed valuation of all of the real and tangible personal property within the entire area of the district, according to the official county assessment of property as of December thirty-first of the calendar year next preceding the date of the election, and in addition thereto that the city has assumed and agreed to assume or pay in a lump sum all contractual obligations of the sewer district that are greater than twenty-five thousand dollars for debt that pertains to infrastructure, fixed assets or obligations for the purchase of sewer, and to pay the

court costs;

(6) The decree shall thereupon vest in the city the absolute title, free and clear of all liens or encumbrances of every kind and character, to all tangible real and personal property of the common sewer district located within the part of the district situated within the corporate limits of the city with full power in the city to use and dispose of the tangible real and personal property as it deems best in the public interest;

(7) If the proposal fails to receive the approval of the voters the question may be again presented by another petition and again voted on, but not sooner than six months;

(8) Any and all sums paid out by the city under this section, other than the costs of the election, shall be administered by the circuit court for the benefit of the holders of the then existing and outstanding bonds of the district, and the remainder of such sums, if any, shall be delivered to the district to be expended in the operation, maintenance and improvement of its sewer distribution system.

2. Upon the effective date of any final order detaching and excluding any part of the area of any common sewer district, or leasing, selling or conveying any of the sewer mains, plant or equipment therein, the circuit court may, in the public interest, change the boundaries of the common sewer district without further petition being filed with the court to do so.

Section 4. 1. Competition to collect and treat sewage, as between and among common sewer districts, sewer corporations subject to public service commission jurisdiction or circuit courts of this state, and municipally owned utilities may be displaced by written territorial agreements, but only to the extent hereinafter provided for in this section.

2. Such territorial agreements shall specifically designate the boundaries of the sewer service area of each sewer supplier subject to the agreement; any and all powers granted to a common sewer district by a municipality to operate within the corporate boundaries of that municipality, and any and all powers granted to a municipally owned utility to operate in areas beyond the corporate municipal boundaries of its municipality. Where the parties cannot agree, they may, by mutual consent of all parties involved, petition the public service commission to designate the boundaries of the sewer service areas to be served by each party and such designations by the commission shall be binding on all such parties. Petitions shall be made pursuant to the rules and regulations of the commission governing applications for certificates of public convenience and necessity and the commission shall be required to hold evidentiary hearings on all petitions so received. The

commission shall base its final determination upon a finding that the commission's designation of sewer service areas is in the public interest.

3. Before becoming effective, all territorial agreements entered into pursuant to the provisions of this section, including any subsequent amendments to such agreements, or the transfer or assignment of the agreement or any rights or obligations of any party to an agreement, shall receive the approval of the public service commission by report and order. Applications for commission approval shall be made and notice of such filing shall be given to other sewer suppliers pursuant to the rules and regulations of the commission governing applications for certificates of public convenience and necessity. Unless otherwise ordered by the commission for good cause shown, the commission shall rule on such applications not later than one hundred twenty days after the application is properly filed with the secretary of the commission.

4. The commission shall hold evidentiary hearings to determine whether such territorial agreements should be approved or disapproved. The commission may approve the application if it shall after hearing determine that approval of the territorial agreement in total is not detrimental to the public interest. Review of commission decisions under this section shall be governed by the provisions of sections 386.500 to 386.550, RSMo.

5. Commission approval of any territorial agreement entered into under the provisions of this section shall in no way affect or diminish the rights and duties of any sewer collector not a party to the agreement to provide service within the boundaries designated in such territorial agreement. In the event any sewer corporation which is not a party to the territorial agreement and which is subject to the jurisdiction, control and regulation of the commission under chapters 386, RSMo, and 393, RSMo, has sought or hereafter seeks authorization from the commission to collect and treat sewage or construct, operate and maintain sewer collection facilities within the boundaries designated in any such territorial agreement, the commission, in making its determination regarding such requested authority, shall consider the existence of any such territorial agreement and any actual rendition of retail sewer collection services by any of the parties to such territorial agreement shall preclude the commission from granting the requested authority.

6. The commission shall have jurisdiction to entertain and hear complaints involving any commission-approved territorial agreement. Such complaints shall be brought and prosecuted in the same manner as other complaints before the commission. After hearing, if the commission determines that the territorial agreement is not in the public interest, it shall have the authority to suspend or

revoke the territorial agreement. If the commission determines that the territorial agreement is still in the public interest, such territorial agreement shall remain in full force and effect. Except as provided in this section, nothing in this section shall be construed as otherwise conferring upon the commission jurisdiction over the service, rates, financing, accounting or management of any common sewer district or municipally owned utility, or to amend, modify or otherwise limit the rights of common sewer districts to provide service as otherwise provided by law.

7. Notwithstanding the provisions of section 386.410, RSMo, the commission shall by rule set a schedule of fees based upon its costs in reviewing proposed territorial agreements for approval or disapproval. Responsibility for payment of the fees shall be that of the parties to the proceeding as ordered by the commission in each case. The fees shall be paid to the director of revenue who shall remit such payments to the state treasurer. The state treasurer shall credit such payments to the public service commission fund, or its successor fund, as established in section 33.571, RSMo. Nothing in this section shall be construed as otherwise conferring upon the commission jurisdiction over the service, rates, financing, accounting or management of any common sewer district or municipally owned utility and except as provided in this section, nothing shall affect the rights, privileges or duties of common sewer districts, sewer corporations subject to public service commission jurisdiction or municipally owned utilities.

8. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2002, shall be invalid and void.

Section 5. 1. Whenever the governing body of any sewer district organized pursuant to chapter 249, RSMo, shall deem it necessary, convenient or advisable for the operation and management of such district to convert the method of operation and management of such district to that provided by chapter 204, RSMo, said district may be reorganized as provided in this section.

2. The county commission, upon its own initiative, may, and the governing body of the district organized under chapter 204, RSMo, shall, upon receipt of a petition signed by twenty-five or more persons residing within the boundaries of the district or two thirds of the persons residing within the boundaries of the district,

whichever number is smaller, file with the circuit court of the county in which the district is located a petition setting forth the reasonableness or necessity for changing the operation and management of the district and a prayer for such further action as may be necessary to change the operational authority of the district.

3. The court shall fix a time at which it will hear the petition or any objections thereto, and it shall be the duty of the clerk of the circuit court to cause a notice to be published in a newspaper of general circulation in the county where the proceedings are pending for three consecutive weeks before the court date, which notice shall state the purpose of the hearing.

4. If upon the hearing of the petition and objections, the court shall find that a change in the statutory authority for the operation and maintenance of the district is necessary or reasonable, or will be of public utility or benefit, the court shall find in favor of the petitioners and shall render its decree to that effect. If the court shall find that such a change is not necessary or will not be of public utility or benefit and will not be advisable, then it shall find against the petitioners and shall dismiss the petition.

Section 6. Sections 6 to 17 of this act are known and may be cited as the "Sanitary Sewer Improvement Subdistrict Act", and the following words and terms, as used in these sections, mean:

(1) "Acquire", the acquisition of property or interests in property by purchase, gift, condemnation or other lawful means and may include the acquisition of existing property and improvements already owned by the district;

(2) "Assess or Assessment", a unit of measure to allocate the cost of an improvement among property or properties within a subdistrict based upon an equitable method of determining benefits to any such property resulting from an improvement;

(3) "Consultant", engineers, architects, planners, attorneys, financial advisors, accountants, investment bankers and other persons deemed competent to advise and assist the governing body of the district in planning and making improvements;

(4) "Cost", all costs incurred in connection with an improvement, including, but not limited to, costs incurred for the preparation of preliminary reports, preparation of plans and specifications, preparation and publication of notices of hearings, resolutions, ordinances and other proceedings, fees and expenses of consultants, interest accrued on borrowed money during the period of construction, underwriting costs and other costs incurred in connection with the issuance of bonds or notes, establishment of reasonably required reserve funds for bonds or notes, the cost of land, materials, labor and other lawful expenses incurred in planning, acquiring and

doing any improvement, reasonable construction contingencies, and work done or services performed by the district in the administration and supervision of the improvement;

(5) "District or sewer district", any public sanitary sewer district organized and operated under the provisions of chapters 204 or 249, RSMo, and any metropolitan sewer district organized under the constitution of this state;

(6) "Improve", to construct, reconstruct, maintain, restore, replace, renew, repair, install, equip, extend or to otherwise perform any work which will provide a new sanitary sewer facility or enhance, extend or restore the value or utility of an existing sanitary sewer facility;

(7) "Improvement", any one or more sanitary sewer facilities or improvements which confer a benefit on property within a definable area and may include or consist of a reimprovement of a prior improvement; improvements include, but are not limited to, the following activities:

(a) To acquire property or interests in property when necessary or desirable for any purpose authorized by sections 6 to 17 of this act;

(b) To improve sanitary sewers, wastewater treatment plants, lagoons, septic tanks and systems and any and all other sanitary sewer and waste water collection and treatments systems of any type, whether located on improved or unimproved public or private property, the general object and nature of which will either preserve, maintain, improve or promote the general public health, safety and welfare, or the environment, regardless of technology used;

(8) "Sanitary sewer improvement subdistrict", an area of a district with defined limits and boundaries which is created by petition pursuant to sections 6 to 17 of this act and which is benefitted by an improvement and subject to assessments against the real property therein for the cost of the improvement;

(9) "User fee", a fee established and imposed by a district for payment of an assessment in period installments to pay for improvements made in a sanitary sewer improvement subdistrict which benefit the property within such subdistrict that is subject to the assessment.

Section 7. 1. To establish a sanitary sewer subdistrict, the governing body of the district shall comply with the following procedure: the governing body of the district may create a sanitary sewer subdistrict when a proper petition has been signed by four-sevenths of the owners of record within such proposed subdistrict. The petition, in order to become effective, shall be filed with the district. A proper petition for the creation of a sanitary sewer subdistrict shall set forth the project name for the proposed improvement, the general nature of the proposed improvement, the estimated

cost of such improvement, the boundaries of the proposed sanitary sewer subdistrict, the proposed method or methods of financing the project including the estimated amount of and method for imposing user fees against the real property within the district to pay for the cost of the improvements and any bonds issued therefor, a notice that the names of the signers may not be withdrawn later than seven days after the petition is filed with the district, and a notice that the final cost of such improvement and the amount of revenue bonds issued therefor shall not exceed the estimated cost of such improvement, as stated in such petition, by more than twenty-five percent.

2. Upon the filing of a proper petition with the district, the governing body may by resolution or ordinance determine the advisability of the improvement and may order that the district be established and that preliminary plans and specifications for the improvement be made. Such resolution or ordinance shall state and make findings as to the project name for the proposed improvement, the nature of the improvement, the estimated cost of such improvement, the boundaries of the sanitary sewer subdistrict, the proposed method or methods of imposing user fees within the district, and shall also state that the final cost of such improvement within the sanitary sewer subdistrict and the amount of general or special revenue bonds issued therefor shall not, without a new petition, exceed the estimated cost of such improvement by more than twenty-five percent.

3. The boundaries of the proposed subdistrict shall be described by metes and bounds, streets or other sufficiently specific description.

Section 8. As an alternative to all other methods provided by law or charter, the board of trustees of any sewer district organized and operated under the provisions of chapters 204 or 249, RSMo, or any metropolitan sewer district organized under the constitution of this state, may make, or cause to be made, improvements which confer a benefit upon property within a sanitary sewer improvement subdistrict pursuant to sections 6 to 17 of this act. The board of trustees of such district may incur indebtedness and issue temporary notes and general or special revenue bonds pursuant to sections 6 to 17 of this act to pay for all or part of the cost of such improvements. An improvement may be combined with one or more other improvements for the purpose of issuing a single series of general or special revenue bonds to pay all or part of the cost of said subdistrict's improvements, but separate funds or accounts shall be established within the records of the district for each improvement project as provided in sections 6 to 17 of this act. Such district shall make assessments and may impose user fees on the property deemed by the board of trustees to be benefitted by each such improvement project pursuant to sections 6 to

17 of this act in addition to any other fees or charges imposed by the district for provision of services or payment of debt. The district shall use the moneys collected from such assessments and user fees to reimburse the district for all amounts paid or to be paid by it as principal of and interest on its temporary notes and general or special revenue bonds issued for such improvements.

Section 9. The portion of the cost of any improvement to be assessed or imposed against the real property in a sanitary sewer subdistrict shall be apportioned against such property in accordance with the benefits accruing thereto by reason of such improvement. The cost may be assessed equally by lot or tract, or per front foot, or per square foot, against property within the subdistrict or by any other reasonable assessment plan determined by the board of trustees of the district which results in imposing substantially equal burdens or share of the cost upon property similarly benefitted. The board of trustees of the district may from time to time determine and establish by ordinance or resolution reasonable general classifications and formulae for the methods of assessing or determining the benefits.

Section 10. 1. After the board of trustees has made the findings specified in section 7 of this act and plans and specifications for the proposed improvements have been prepared, the board of trustees shall by ordinance or resolution order assessments to be made against each parcel of real property deemed to be benefitted by an improvement based on the revised estimated cost of the improvement or, if available, the final cost thereof, and shall order a proposed assessment roll to be prepared.

2. The plans and specifications for the improvement and the proposed assessment roll shall be filed with the district and shall be open for public inspection. Such district shall thereupon, at the direction of the board of trustees, publish notice that the board of trustees will conduct a hearing to consider the proposed improvement and proposed assessments. Such notice shall be published in a newspaper of general circulation at least once not more than twenty days and not less than ten days before the hearing and shall state the project name for the improvement, the date, time and place of such hearing, the general nature of the improvement, the revised estimated cost or, if available, the final cost of the improvement, the boundaries of the neighborhood improvement district to be assessed, and that written or oral objections will be considered at the hearing. At the same time, the district shall mail to the owners of record of the real property made liable to pay the assessments, at their last known post office address, a notice of the hearing and a statement of the cost proposed to be assessed against the real property so owned and assessed. The failure of any owner to receive such notice shall not invalidate the

proceedings.

Section 11. 1. At the hearing to consider the proposed improvements and assessments, the board of trustees or their designated representative shall hear and pass upon all objections to the proposed improvements and proposed assessments, if any, and may amend the proposed improvements, and the plans and specifications therefor, or assessments as to any property, and thereupon by ordinance or resolution the board of trustees shall order that the improvement be made and direct that financing for the cost thereof be obtained as provided in sections 6 to 17 of this act.

2. After the improvement has been completed in accordance with the plans and specifications therefor, the board of trustees shall compute the final costs of the improvement and apportion the costs among the property benefitted by such improvement in such equitable manner as the board of trustees shall determine, charging each tract, lot or parcel of property with its proportionate share of the costs, and by resolution or ordinance, assess the final cost of the improvement or the amount of general or special revenue bonds issued or to be issued therefor as assessments against the property described in the assessment roll.

3. After the passage or adoption of the ordinance or resolution assessing the special assessments, the district shall mail a notice to each property owner within the district which sets forth a description of each tract, lot or parcel of real property to be assessed which is owned by such owner, the assessment assigned to such property, and a statement that the property owner may pay such assessment in full, together with interest accrued thereon from the effective date of such ordinance or resolution, on or before a specified date determined by the effective date of the ordinance or resolution, or may pay such assessment in the form of user fees in periodic installments as provided in subsection 4 of this section. Notice of the assessments together with a list of all properties assessed with the subdistrict and of the assessment lien shall be filed with the recorder of deeds upon the effective date of the ordinance or resolution, but failure to timely record such notice shall not affect the validity of the assessments or liens thereunder. The district shall record written notice of release of lien whenever an assessment is paid in full; the cost of recording assessment notices and release of liens shall be includable in the assessment.

4. The assessments shall be assessed upon the property and those not paid in full as provided in subsection 3 of this section shall be payable in the form of user fees payable in periodic and substantially equal installments as determined by the district for a duration stated in the petition prescribed in section 7 of this act. All assessments shall bear interest at such rate as the board of trustees determines, not to exceed the rate permitted for bonds by section 108.170, RSMo. Interest on the assessment between

the effective date of the ordinance or resolution assessing the assessment and the date the first installment of a user fee is payable shall be added to the first installment or prorated amongst all scheduled installments.

5. Assessments not paid in full shall be collected and paid over to the district in the form of user fees in the same manner as other district fees and charges are collected and paid, or by any other reasonable method determined by the district.

Section 12. No suit to set aside the assessments made pursuant to sections 9 to 11 of this act or to otherwise question the validity of the proceedings relating thereto shall be brought after the expiration of ninety days from the date of mailing of notice to property owners of the assessments required by section 11 of this act.

Section 13. 1. To correct omissions, errors or mistakes in the original assessment which relate to the total cost of an improvement, the board of trustees of the district may, without a notice or hearing, make supplemental or additional assessments on property within a sanitary sewer subdistrict, except that such supplemental or additional assessments shall not, without a new petition as provided in section 7 of this act, exceed twenty-five percent of the estimated cost of the improvement determined pursuant to section 11 of this act.

2. When an assessment is, for any reason whatever, set aside by a court of competent jurisdiction as to any property, or in the event the board of trustees finds that the assessment or any part thereof is excessive or determines on advice of counsel in writing that it is or may be invalid for any reason, the board of trustees may, upon notice and hearing as provided for the original assessment, make a reassessment or a new assessment as to such property.

Section 14. An assessment authorized under the provisions of sections 6 to 17 of this act, once determined and imposed, shall constitute a lien against such property until paid in full and shall not be affected by the existence or enforcement of any other liens or encumbrances, nor shall enforcement of an assessment lien have any effect on the validity or enforcement of any tax lien or lien established by mortgage or deed of trust. An assessment lien becomes delinquent when an assessment is not paid in full as prescribed by section 11 of this act or when one or more periodic installments imposed by the district for an assessment remain unpaid for a period of thirty days or more after notice of delinquency in payment is mailed to the last known owners of the property subject to assessment by regular United States mail and by certified mail, return receipt requested, at their last known address provided by such owners to the district and to the occupant of property which is subject to assessment, if different from that of the owners. In the event any such user fee remains unpaid after thirty days of the mailing of any such notice, the district shall be entitled to

petition the circuit court having jurisdiction to foreclose upon the assessment lien by special execution sale of the property subject to the assessment for the unpaid assessment plus reasonable attorney's fees, court costs and other reasonable costs incurred by the district in collection. In any such suit, the district shall name all parties appearing of record to have or claim an interest in the property subject to the unpaid assessment and shall file a notice of lis pendens in connection with said action; in addition, the district may obtain a judgment against last known owners of the property for any deficiency in payment of the assessment and costs and fees made a part of the court's judgment.

Section 15. After an improvement has been authorized pursuant to section 7 of this act, the board of trustees of the district may issue temporary notes of the district to pay the costs of such improvement in an amount not to exceed the estimated cost of such improvement, and such temporary notes may be issued in anticipation of issuance of general or special revenue bonds of the district. The district may participate in any governmentally sponsored bond pooling program or other bond program. Bonds may be issued and made payable from general revenues of the subdistrict or district, or from special revenues from designated properties within a subdistrict.

Section 16. A separate fund or account shall be created by the district for each improvement project and each such fund or account shall be identified by a suitable title. The proceeds from the sale of bonds and temporary notes and any other moneys appropriated thereto by the board of trustees of the district shall be credited to such funds or accounts. Such funds or accounts shall be used solely to pay the costs incurred in making each respective improvement. Upon completion of an improvement, the balance remaining in the fund or account established for such improvement, if any, may be held as contingent funds for future improvements or may be credited against the amount of the original assessment of each parcel of property, on a pro rata basis based on the amount of the original assessment, and with respect to property owners that have prepaid their assessments in accordance with section 11 of this act, the amount of each such credit shall be refunded to the appropriate property owner, and with respect to all other property owners, the amount of each such credit shall be transferred and credited to the district bond and interest fund to be used solely to pay the principal of and interest on the bonds or temporary notes and the assessments shall be reduced accordingly by the amount of such credit.

Section 17. Any public sanitary sewer district organized and operated under the provisions of chapters 204 or 249, RSMo, and any metropolitan sewer district organized under the constitution of this state, may enter into a cooperative

agreement with a city or county for the purpose of constructing sanitary sewer system improvements pursuant to the provisions of the neighborhood improvement district act, sections 67.453 to 67.475, RSMo. Any such cooperative agreement, if approved by the governing bodies of the district and city or county, may include provisions for joint administration of projects, for the issuance of temporary notes and general obligation bonds by district, city or county, separately or jointly, and for the payment of such bonds by any source of funds or user fees in addition to funds from special assessments as provided for in sections 67.453 to 67.475, RSMo, and general ad valorem taxes, so long as all terms, conditions and covenants of any applicable bond indenture are complied with and so long as said notes and bonds are issued in compliance with general applicable law.

[204.251. Except as specifically provided in sections 204.251 to 204.257 and except for the alternative method of creation prescribed in the provisions of subsections 3 to 7 of section 204.250, sewer subdistricts created pursuant to the provisions of subsections 3 to 7 of section 204.250 shall in all respects be governed by the provisions of this chapter.]

[204.252. If it appears that the required percentage of the voters of the subdistrict voting on the proposition of incurring indebtedness submitted at an election pursuant to subsections 3 to 7 of section 204.250 were in favor of incurring such indebtedness, the election authority shall make an order reciting the holding of such election and the results thereof, both for and against the proposition, and if the result of the election as certified shall be in favor of incurring the indebtedness and issuing the bonds, or if the required percentage of the voters of the common sewer district have, prior to the creation of the subdistrict, voted in favor of incurring indebtedness and the amount of bonds issued under such authority does not exceed the amount approved by the voters at such election, then the board of trustees for the common sewer district may direct the issuance of such bonds to the amount of the debt authorized to be incurred, or any portion thereof, and shall either before or at the time of doing so provide for the collection of an annual ad valorem tax upon all of the taxable property within the subdistrict, which tax shall be sufficient to pay the interest on such indebtedness as it falls due, and also create a sinking fund for the payment of the principal thereof within twenty years from the date of contracting the same, such tax to be levied and collected as provided for in section 249.130, RSMo.]

[204.253. 1. The board of trustees of the common sewer district over the subdistrict formed under the alternative method of formation provided in subsections 3 to 7 of section 204.250 shall have no power to levy or collect any taxes for the payment of any indebtedness incurred by the common sewer district unless and until the voters of

the common sewer district or the subdistrict shall have authorized the incurring of indebtedness at an election. All expenses and indebtedness incurred by the common sewer district on behalf of the subdistrict may be paid out of funds which may be received by the common sewer district on behalf of the subdistrict from the sale of bonds authorized by the voters of the subdistrict or the voters of the common sewer district.

2. Nothing in this section shall be construed to prevent the board of trustees from expending funds of the common sewer district for the benefit of the subdistrict or to require the board of trustees to expend funds of the common sewer district for the benefit of the subdistrict.]

[204.254. 1. The total amount of any bonds issued pursuant to sections 204.251 to 204.257 for improvements to the subdistrict of the common sewer district shall not exceed ten percent of the assessed valuation of all taxable tangible property, as shown by the last completed property assessment for state or local purposes, within the common sewer district.

2. Such bonds shall be signed by the president of the board of trustees and attested by the signature of the secretary of the board of trustees with the seal of the district affixed thereto. The interest coupons may be executed by affixing thereon the facsimile signature of the secretary of the district. The bonds may be sold under the same conditions as are provided for the sale of county road bonds.

3. All bonds issued under sections 204.251 to 204.257 shall be registered in the office of the state auditor as provided by law for the registration of bonds of cities and in the office of the secretary of the board of trustees of the district in a book kept for that purpose for registry, shall show the number, date, amount, date of sale, name of the purchaser and the amount for which the bond was sold. The moneys of the common sewer district shall be deposited by the treasurer of the common sewer district in such bank or banks as shall be designated by order of the board of trustees and the secretary of the common sewer district shall charge the treasurer therewith and the moneys shall be drawn from the treasury upon warrants issued by the common sewer district for the purposes for which the bonds were issued.]

[204.255. 1. It shall be the duty of the secretary of the board of trustees of the common sewer district, on or before the fifteenth day of May in each year, to certify to the common sewer district board of trustees the amount of money that will be required during the next succeeding year to pay interest falling due on bonds issued and the principal of bonds maturing in such year, and the amount necessary to cover the estimated expenses of maintaining such sewer subdistrict system in good condition, or renting or leasing of existing sewer facilities and of maintaining the subdistrict with its necessary expenses.

2. On receipt of such certificate it shall be the duty of the board of trustees of the common sewer district to levy such a rate of taxes upon all the taxable property in the sewer subdistrict as will produce a sum of money sufficient for the purposes aforesaid; provided, that the board of trustees of the common sewer district shall have no authority to levy such tax until the voters of the common sewer district or subdistrict shall have voted to incur such indebtedness.

3. On such order being made it shall be the duty of the board of trustees of the common sewer district to cause such rate of taxation to be extended upon the tax books against all the taxable property in the sewer subdistrict and the same shall be collected and remitted to the board of trustees of the common sewer district by the collector of the revenue of the county at the time, in the manner, and by the same means as state, county, school and other taxes are collected and remitted. All of the laws, rights and remedies provided by the laws of this state for the collection of state, county, school and other taxes shall be applicable to the collection of taxes herein authorized to be collected.]

[204.256. When a sewer subdistrict of a common sewer district has been formed pursuant to the alternative method of creation prescribed in subsections 3 to 7 of section 204.250, the board of trustees of the common sewer district shall have the same powers with regard to the subdistrict as for the common sewer district as a whole, plus the following additional powers:

(1) To provide for the construction, extension, improvement, and operation of such sewers, sewer systems, and treatment and disposal facilities, as the board determines necessary for the preservation of public health and maintenance of sanitary conditions in the subdistrict;

(2) For the purpose of meeting the costs of activities undertaken pursuant to the authority granted in this section, to issue bonds in anticipation of revenues of the subdistrict in the same manner as set out in sections 204.360 to 204.450, for other bonds of the common sewer district. Issuance of such bonds for the subdistrict shall require the assent only of four-sevenths of the voters voting on the question;

(3) To charge the costs of the common sewer district for operation and maintenance attributable to the subdistrict, plus a proportionate share of the common sewer district's costs of administration to revenues of the subdistrict and to consider such costs in determining reasonable charges to impose within the subdistrict under section 204.440;

(4) To provide for the treatment and disposal of sewage from the subdistrict in or by means of facilities of the common sewer district not located within the subdistrict with the concurrence of the subdistrict advisory board, in which case the board of trustees shall also have authority to charge a proportionate share of the costs of the common sewer

district for operation and maintenance to revenues of the subdistrict and to consider such costs in determining reasonable charges to impose within the subdistrict under section 204.440;

(5) To add contiguous property to the subdistrict with the approval of at least two-thirds of the landowners within such contiguous territory.]

[204.257. The board of trustees of the common sewer district, in its discretion, may create an advisory board for the subdistrict to consist of five members, each serving a term of two years. An authorized representative, not a member of the common sewer district's advisory board under section 204.310, from the sewer subdistrict, together with the representatives of each county having territory within the subdistrict, may constitute the advisory board for the subdistrict. The board of trustees of the common sewer district may keep the subdistrict advisory board informed as to all phases of the planning and operations of the subdistrict, and the subdistrict advisory board may make such recommendations to the common sewer district advisory board as the subdistrict board deems advisable with regard to the construction and operation of sewers and facilities in the subdistrict.]

[204.260. 1. The circuit court shall within thirty days after receiving the petition appoint three disinterested persons, one of whom shall be a licensed civil engineer or surveyor, as common sewer district commissioners to lay out and define the boundaries of the proposed district.

2. The common sewer district commissioners may alter or amend the boundaries of the proposed district as set forth in the petition so that it embraces all of the area capable of being efficiently drained by the system of trunk sewers, or so as to exclude from the district any part of the natural drainage area which is so situated as not to be benefited by the proposed trunk sewers or treatment plants, and for this purpose they shall have power to have made all surveys and maps necessary to locate and describe the boundaries.

3. The common sewer district commissioners shall qualify by taking an oath to faithfully and impartially perform their duties and when so qualified shall give notice by publication at least five times, in one or more newspapers having a general circulation in the proposed district, of the time and place where they will meet to consider and establish the boundaries. The notice shall be given at least twenty days prior to the meeting, and the meeting place shall be in the courthouse of the county in which the major portion of the proposed district lies.

4. At the meeting the common sewer district commissioner first named in the order of appointment shall preside, and all persons residing or owning real property in the proposed district, or adjacent thereto, shall have the right to be heard as to the location

of the boundaries of the proposed district; and the common sewer district commissioners or a majority of them after the hearing shall fix and determine the boundaries of the proposed district.

5. The common sewer district commissioners may adjourn from day to day until the hearings are complete, and for their services shall receive such compensation as may be determined by the circuit court which appoints them. They may employ a competent person as stenographer and clerk, whose compensation shall be as set by the circuit court.]

[204.270. The commissioners shall make their report, accompanied by a map or plan showing the boundaries of the proposed district in relation to the property lines intersected or followed by them, also in relation to city or county boundaries, to the court by which they were appointed, and shall thereupon be discharged by the court. The report and map, if approved by the court, shall then be filed in the office of the recorder of deeds for each county in which a portion of the proposed district is situated and with the county commission of each such county.]

[204.280. 1. The circuit court shall by order direct the county commission of any county partially within the proposed district to submit to the voters of the proposed district the question of the organization and incorporation of the proposed common sewer district, with boundaries as determined by the commissioners and approved by the circuit court.

2. The county clerk of each county shall certify to the circuit court the results of the election in that portion of the proposed district within his county.

3. If the circuit court finds that a majority of the votes cast on the question in each county favored the incorporation of the proposed district, the court shall issue a decree incorporating the area described in the commissioners' report as a common sewer district. If the proposition is favored by a majority of those voting in the county containing the major portion of the district but not by a majority voting in the other county, the court shall change the boundaries to include only the area within the one county and shall decree the incorporation thereof.

4. If the question fails to receive a majority of the votes cast in the county containing the major portion of the proposed district, regardless of the results in the election in the other county, the court shall dismiss the petition and tax the costs of the proceedings and the election against the county which presented the petition.]

[204.310. The representative of each subdistrict advisory board chosen pursuant to section 204.571, together with the mayor or chief executive officer or the authorized representative of every incorporated municipality and a representative authorized in writing to act in that capacity of every subdistrict, which lies partially within the district and which operates a sewage collection system which will discharge sewage into the trunk

sewers or the sewage facilities of the common sewer district shall constitute an advisory board of the district. If there are three or fewer municipalities and subdistricts the organization of an advisory board is optional at the discretion of the board of trustees, and in such case all powers can be exercised by the board of trustees without the concurrence of the advisory board. The advisory board shall organize by electing one of its members as chairman and one as vice chairman. The board of trustees shall keep the advisory board informed as to all phases of the planning and operations of the district, and the advisory board shall make such recommendations to the board of trustees as it deems advisable with regard to the construction and operation of the sewers and facilities of the district.]

[204.331. The county commission, or county legislature, may, in addition to all powers herein granted or implied, create a subdistrict or subdistricts within the county, which subdistrict, when created, shall be a body corporate and politic. Creation of the subdistrict or subdistricts shall be in the manner hereinafter provided, but in all other respects the administration and operation of the subdistricts shall be in the manner provided by sections 249.430 to 249.660, RSMo. Either the county commission or the members of the county legislature elected from all or a portion of the subdistrict shall act as the governing body of the sewer subdistrict. Each subdistrict so created shall, in addition to the powers granted by sections 249.430 to 249.660, RSMo, have the power and ability to contract with the common sewer district created pursuant to sections 204.250 to 204.470, or with other subdistricts for the collection, transportation and treatment of sewage or any function associated therewith, including but not limited to engineering, construction, maintenance, repair, and administrative services required for the collection, transportation, and treatment of sewage.]

[204.332. In lieu of the method of incorporation provided in sections 249.450 and 249.460, RSMo, subdistricts may be created in the following manner: Upon written recommendation of the county highway engineer, county sewer engineer, or director of public works; or upon petition of twenty percent or more of the registered voters within the area which will be liable to assessment for the construction and maintenance of a sewer system, setting forth generally the area to be included, the county commission or county legislature shall adopt a resolution to establish the subdistrict and describing generally the size and location of the proposed subdistrict. The county commission or county legislature may designate the highway engineer or director of public works as sewer engineer, or may retain the services of an engineer or firm of engineers as sewer engineers. The sewer engineer shall advise the county commission or county legislature with reference to proper boundaries of any subdistricts to be established and shall also superintend the construction of the sewers and the maintenance thereof and the

apportionment of the cost thereof as provided by law. The county commission or county legislature shall also request the county clerk, clerk of the legislature, or other appropriate officer to appoint or designate a deputy to keep the special records which are required for the proceedings for the construction and maintenance of the sewer subdistricts or divisions. In addition, the requirements of sections 249.070 and 249.480, RSMo, must be complied with before a sewer subdistrict can be incorporated under the provisions of sections 204.331 and 204.332.]

[204.440. The board of trustees shall impose, charge and collect a reasonable charge from the sewer districts and municipalities, based upon sewage discharge as shown by metering such flows, the volume of water used by the residential, commercial, and industrial establishments' customers within the corporate limits of such district or municipality, or other equitable measure. Such charges shall be fixed at such rate or rates as are recommended to the board of trustees by the advisory board; except that such rates shall ensure that the rates fixed will provide sufficient revenues for the operation and maintenance of the system and the payment of principal and interest on all outstanding revenue bonds as provided in sections 204.250 to 204.470.]

[204.565. One or more political subdivisions of this state not within a common sewer district formed pursuant to sections 204.250 to 204.470 may be joined as an unincorporated subdistrict to such common sewer district, regardless of whether such political subdivision lies in the natural drainage area or basins of such district, in the following manner: The governing body of any such political subdivision, together with the trustees of the common sewer district, may petition the circuit court having jurisdiction over the major portion of the area to be joined to the common sewer district as the proposed subdistrict for extension of the boundaries of the common sewer district to include as a subdistrict the area within the political subdivision described in the petition. The petition shall also set forth a name for the proposed subdistrict, shall state the purposes for which such subdistrict of the common sewer district is to be created, shall set forth the boundaries of the proposed subdistrict, and shall have a map of the proposed subdistrict attached thereto.]

[204.567. The circuit court with jurisdiction over the formation of a sewer subdistrict and extension of the boundaries of a common sewer district to include such subdistrict pursuant to section 204.565 shall, within thirty days after receiving the petition, schedule a public hearing on the petition. The clerk of the circuit court having such jurisdiction shall give notice of the time and the place of the public hearing by publication at least once each week for three consecutive weeks in one or more newspapers having a general circulation in the proposed subdistrict and in the common sewer district. Such notice shall state that the subdistrict will, upon its formation, be a

subdistrict of the common sewer district, which will be identified by name, and shall describe either the boundaries of the proposed subdistrict or the area to be included within the proposed subdistrict. If the court shall find formation of such subdistrict reasonable or necessary, the court shall enter its decree extending the boundaries of the common sewer district, declaring the area to be a sewer subdistrict of the common sewer district, and approving the map submitted by the petitioners. The decree and map shall then be filed by the circuit clerk in the office of the recorder of deeds for each county in which any portion of such subdistrict and of the common sewer district is situated and with the county commission or county legislature, as the case may be, of each such county.]

[204.569. When an unincorporated sewer subdistrict of a common sewer district has been formed pursuant to sections 204.565 to 204.573, the board of trustees of the common sewer district shall have the same powers with regard to the subdistrict as for the common sewer district as a whole, plus the following additional powers:

(1) To enter into agreements to accept, take title to, or otherwise acquire, and to operate such sewers, sewer systems, treatment and disposal facilities, and other property, both real and personal, of the political subdivisions included in the subdistrict as the board determines to be in the interest of the common sewer district to acquire or operate, according to such terms and conditions as the board finds reasonable, provided that such authority shall be in addition to the powers of the board of trustees pursuant to section 204.340;

(2) To provide for the construction, extension, improvement, and operation of such sewers, sewer systems, and treatment and disposal facilities, as the board determines necessary for the preservation of public health and maintenance of sanitary conditions in the subdistrict;

(3) For the purpose of meeting the costs of activities undertaken pursuant to the authority granted in this section, to issue bonds in anticipation of revenues of the subdistrict in the same manner as set out in sections 204.360 to 204.450, for other bonds of the common sewer district. Issuance of such bonds for the subdistrict shall require the assent only of four-sevenths of the voters of the subdistrict voting on the question, and the principal and interest of such bonds shall be payable only from the revenues of the subdistrict and not from any revenues of the common sewer district as a whole;

(4) To charge the costs of the common sewer district for operation and maintenance attributable to the subdistrict, plus a proportionate share of the common sewer district's costs of administration to revenues of the subdistrict and to consider such costs in determining reasonable charges to impose within the subdistrict under section 204.440;

(5) With prior concurrence of the subdistrict's advisory board, to provide for the treatment and disposal of sewage from the subdistrict in or by means of facilities of the common sewer district not located within the subdistrict, in which case the board of trustees shall also have authority to charge a proportionate share of the costs of the common sewer district for operation and maintenance to revenues of the subdistrict and to consider such costs in determining reasonable charges to impose within the subdistrict under section 204.440.]

[204.571. An authorized representative, not a member of the common sewer district's advisory board under section 204.310, from each political subdivision which lies partially within a sewer subdistrict formed pursuant to sections 204.565 to 204.573 and which operates or is served by a sewage collection system, together with the representatives of all other such political subdivisions and of each county having territory within the subdistrict, shall constitute an advisory board for the subdistrict. The advisory board shall organize by electing one of its members as chairman, one as vice chairman, and one as a representative to the common sewer district's advisory board formed pursuant to section 204.310. The board of trustees of the common sewer district shall keep the subdistrict advisory board informed, either directly or through the district advisory board, as to all phases of the planning and operations of the subdistrict, and the subdistrict advisory board shall make such recommendations to the common sewer district advisory board as the subdistrict board deems advisable with regard to the construction and operation of sewers and facilities in the subdistrict.]

[204.573. A majority of the political subdivisions within a sewer subdistrict formed pursuant to sections 204.565 to 204.573 and entitled to representation on that subdistrict's advisory board under section 204.571, together with the board of trustees of the common sewer district of which the subdistrict is a part, may petition the circuit court in which such subdistrict was formed for extension of the boundaries of such subdistrict and common sewer district within one or more of the political subdivisions or to include all or a part of other political subdivisions, which political subdivisions must also join in such petition. The petition shall state the purposes for which the subdistrict is to be expanded and shall have a map of the subdistrict, including the proposed expansion, attached thereto. The court shall schedule a public hearing and notice shall be afforded in the same manner as provided in section 204.567. If the court shall find such expansion is reasonable or necessary, the court shall enter a decree extending the boundaries of the common sewer district and the sewer subdistrict, declaring such area to be a part of the sewer subdistrict and common sewer district, and approving the map submitted by the petitioners. The decree and map shall then be filed in the same manner as prescribed in section 204.567.]

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