

SECOND REGULAR SESSION

SENATE BILL NO. 1152

92ND GENERAL ASSEMBLY

INTRODUCED BY SENATOR STEELMAN.

Read 1st time January 26, 2004, and ordered printed.

TERRY L. SPIELER, Secretary.

4253S.011

AN ACT

To amend chapter 204, RSMo, by adding thereto thirty-three new sections relating to reorganized common sewer districts, with penalty provisions.

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

Section A. Chapter 204, RSMo, is amended by adding thereto thirty-three new sections, to be known as sections 204.600, 204.602, 204.604, 204.606, 204.608, 204.610, 204.612, 204.614, 204.616, 204.618, 204.620, 204.622, 204.624, 204.626, 204.628, 204.630, 204.632, 204.634, 204.636, 204.638, 204.640, 204.650, 204.652, 204.654, 204.656, 204.658, 204.660, 204.662, 204.664, 204.666, 204.668, 204.670, and 204.672, to read as follows:

204.600. Any common sewer district organized and existing under sections 204.250 to 204.270, RSMo, and any sewer district organized and existing under chapter 249, RSMo, may be converted to a reorganized common sewer district under the provisions of sections 204.600 to 204.640. In addition, a reorganized common sewer district may be established as provided in sections 204.600 to 204.640. Once established, a reorganized common sewer district shall have all powers and authority of and applicable to a common sewer district organized and existing under sections 204.250 to 204.270 and applicable to a sewer district established under chapter 249, RSMo, which are not inconsistent or in conflict with sections 204.600 to 204.640.

204.602. 1. Proceedings for the new formation of a reorganized common sewer district pursuant to sections 204.600 to 204.640 shall be substantially as follows: a petition in duplicate describing the proposed boundaries of the reorganized 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 acquiring or constructing sanitary sewer improvements with the district, if appropriate, an approximation of the assessed valuation of taxable property within the district, whether the board of trustees shall be elected or appointed by the county commission, 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 or property owners within the proposed district and shall request the incorporation of the territory therein described into a reorganized 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 a daily paper once a week for three consecutive weeks.

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 or property owner within 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 the court may deem proper, and thereupon enter its decree of incorporation, with such boundaries as changed. No public sewer district shall be formed pursuant to this chapter, or chapter 249, RSMo, or section 247.035, RSMo, or any sewer district created and organized pursuant to constitutional authority, the boundaries of which shall encroach upon the corporate boundaries of any sewer district then existing, nor shall any public sewer district extend wastewater collection and treatment services within the boundaries of another without written cooperative agreement between such districts to do so.

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 hearing. The decree shall further contain an appointment of five voters from the district, to constitute the first board of trustees of the district. The court shall designate such trustees to staggered terms from one to five years such that one director is appointed or elected each year. The trustees 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 in section 204.610. The decree shall further designate the name of the district by which it shall 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 a majority of the voters of the district voting on such proposition approve of the 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 be permitted 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 reorganized 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 decree 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.

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

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

(2) A majority of the landowners within the territory which is proposed to be added to the reorganized sewer district.

If the petition is filed by a majority of the landowners within the territory proposed to be added to the reorganized sewer district, the publication of notice shall not be required, provided notice is posted in three public places within the territory proposed to be added to the reorganized sewer district at least seven days before the date of the hearing and provided that there is sworn testimony by at least five landowners in the territory proposed to be added to the reorganized sewer district, or a majority of the landowners, if the total landowners in the area are fewer than ten. Otherwise the procedures for notice shall substantially follow those set out in subsection 2 of this section for formation. Territory proposed to be added to the reorganized sewer district may either be contiguous or reasonably close to the boundaries of the existing district. Upon the entry of a final judgment declaring the court's decree of territory proposed to be added to the reorganized sewer district to be final and conclusive, the court shall modify or rearrange the boundary lines of the reorganized sewer district as may be necessary or advisable. The costs incurred in the enlargement or extension of the district shall be taxed to the district, if the district be enlarged or extended, otherwise against the petitioners; provided, however, that no costs shall be taxed to the trustees of

the district.

11. Should any property owner or property owners who own real estate that is not within another sewer district organized under this chapter or chapters 249 and 247, RSMo, or under the state constitution, but that is contiguous or reasonably close to the existing boundaries of the reorganized sewer district, desire to have such real estate incorporated in the district, the property owner shall first petition the board of trustees thereof for its approval. If such approval be granted, the secretary of the board shall endorse a certificate of the fact of approval by the board upon the petition. The petition so endorsed shall be filed with the clerk of the circuit court in which the reorganized sewer district is incorporated. It shall then be the duty of the court to amend the boundaries of such district by a decree incorporating the real estate in the same. A certified copy of this amended decree including the real estate in the district shall then be filed in the office of the recorder and in the office of the county clerk of the county in which the real estate is located, and in the office of the secretary of state. The costs of this proceeding shall be borne by the petitioning property owner.

12. The board of trustees of any reorganized common sewer district may petition the circuit court of the county containing the majority of the acreage in the district for an amended decree of incorporation to allow that district to engage in the construction, maintenance, and operation of water supply and distribution facilities which serve ten or more separate properties which are located wholly within the district and are not served by another political subdivision or are not located within the certificated area of a water corporation as defined in chapter 386, RSMo, or within a public water supply district as defined in chapter 247, RSMo, and the operation and maintenance of all such existing water supply facilities. The petition shall be filed by the board of trustees and all proceedings shall be in substantially the same manner as in action for initial formation of a reorganized common sewer district except that no vote of the residents of the district shall be required. All applicable provisions of this chapter shall apply to the construction, operation, and maintenance of water supply facilities in the same manner as they apply to like functions relating to sewer treatment facilities.

204.604. 1. Any existing common sewer district organized and existing under sections 204.250 to 204.270 and any sewer district organized and existing under chapter 249, RSMo, may establish itself as a reorganized common sewer district under sections 204.600 to 204.640 by petitioning the circuit court of the county in which it was established to approve its reorganization pursuant to sections 204.600 to 204.640 if the governing body of the district has by resolution determined that it is in the best interest of the district to reorganize pursuant to

sections 204.600 to 204.640. Such petition shall also specify whether the board of trustees shall be appointed by the governing body of the county, or elected by the voters of the district. 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 the trustees of the district and shall request the conversion of the district into a reorganized common sewer district.

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 within the existing district or closest to the existing district if there is no newspaper of general circulation within the existing district and if the existing 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 boundary lines of the existing 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 a daily paper once a week for three consecutive weeks.

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 conversion of an existing district to a reorganized common sewer district, may be made by any voter or property owner within 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 it would not be in the public interest to form such a district, the petition shall be dismissed at the costs of the petitioners. If the court finds that the conversion of the district to a reorganized common sewer district pursuant to sections 204.600 to 204.640 is in the best interests of the persons served by the existing district, then the court shall order the district's decree of incorporation amended to permit reorganization under sections 204.600 to 204.640 and the existing board of trustees for such district shall continue to serve the reorganized common sewer district until such time as new

trustees shall be appointed or elected as provided for in the court's decree. If their original terms of office are not so designated, the court shall designate such trustees to staggered terms from one to five years such that one trustee is appointed or elected each year. The trustees 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 in section 204.610. The decree shall further designate the name of the district by which it shall be officially known.

204.606. The bonded indebtedness or security interest of any creditor of any common sewer district originally organized and existing under sections 204.250 to 204.270 and any sewer district originally organized and existing under chapter 249, RSMo, which convert to a reorganized common sewer district shall not be impaired or affected by such conversion and all covenants and obligations of such indebtedness shall remain in full force and effect payable under the terms and conditions which existed without conversion.

204.608. 1. When a decree or amended decree of incorporation is issued as provided for in sections 204.600 to 204.640, a reorganized common sewer district shall be considered in law and equity a body corporate and politic and political subdivision of this state, known by the name specified in the court's decree, and by that name and style may sue and be sued, contract and be contracted with, acquire and hold real estate and personal property necessary for corporate purposes, and adopt a common seal. A reorganized common sewer district also shall have exclusive jurisdiction and authority to provide wastewater collection and treatment services within the boundaries of the district with respect to any wastewater service provider authorized to provide sewer services under the laws of this state.

2. All courts in this state shall take judicial notice of the existence of any district organized under sections 204.600 to 204.640.

204.610. 1. There shall be five trustees, appointed or elected as provided for in the circuit court decree or amended decree of incorporation for a reorganized common sewer district, who shall reside within the boundaries of the district. Each trustee shall be a voter of the district and shall have resided in said district one whole year immediately prior to his or her election or appointment. A trustee shall be at least twenty-five years of age and shall not be delinquent in the payment of taxes at the time of his or her election or appointment. Regardless of whether or not the trustees are elected or appointed, in the event the district extends into any county bordering the county in which the greater portion of the district lies, the presiding commissioner or other chief executive officer of the adjoining county shall be an additional member of the board of trustees, or the

governing body of such bordering county may appoint a citizen from such county to serve as an additional member of the board of trustees. Said additional trustee shall meet the qualifications set forth above for a trustee.

2. The trustees shall receive no compensation for their services, but may be compensated for their reasonable expenses normally incurred in the performance of their duties. The board of trustees may employ and fix the compensation of such staff as may be necessary to discharge the business and purposes of the district, including clerks, attorneys, administrative assistants, and any other necessary personnel. The board of trustees may employ and fix the duties and compensation of an administrator for the district. The administrator shall be the chief executive officer of the district subject to the supervision and direction of the board of trustees. The administrator of the district may, with the approval of the board of trustees, retain consulting engineers for the district under such terms and conditions as may be necessary to discharge the business and purposes of the district.

3. Except as provided in subsection 1 of this section, the term of office of a trustee shall be five years. The remaining trustees shall appoint a person qualified pursuant to this section to fill any vacancy on the board. The initial trustees appointed by the circuit court shall serve until the immediately following first Tuesday after the first Monday in June or until the immediately following first Tuesday after the first Monday in April, depending upon the resolution of the trustees. In the event that the trustees are elected, said elections shall be conducted by the appropriate election authority pursuant to chapter 115, RSMo. Otherwise, trustees shall be appointed by the county commission in accordance with the qualifications set forth in subsection 1 of this section.

4. Notwithstanding any other provision of law, if there is only one candidate for the post of trustee, then no election shall be held, and the candidate shall assume the responsibilities of office at the same time and in the same manner as if elected. If there is no candidate for the post of trustee, then no election shall be held for that post and it shall be considered vacant, to be filled pursuant to the provisions of subsection 3 of this section.

204.612. The board of trustees of a reorganized common sewer district shall have no power to levy or collect any taxes for the payment of any general obligation bond indebtedness incurred by the reorganized common sewer district unless and until the voters of the reorganized common sewer district shall have authorized the incurring of indebtedness at an election. All expenses and indebtedness incurred by the reorganized common sewer district may be paid out of funds which may be received by the reorganized common sewer district from the

sale of bonds authorized by the voters of the reorganized common sewer district.

204.614. 1. The total amount of any general obligation bonds issued by the reorganized 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 reorganized 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, if there be a seal. 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 general obligation bonds issued under sections 204.600 to 204.640 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 reorganized common sewer district shall be deposited by the treasurer of the reorganized common sewer district in such bank or banks as shall be designated by order of the board of trustees and the secretary of the reorganized common sewer district shall charge the treasurer therewith and the moneys shall be drawn from the treasury upon checks or warrants issued by the reorganized common sewer district for the purposes for which the bonds were issued.

204.616. 1. The board of trustees of any reorganized common sewer district shall have power to pass all necessary rules and regulations for the proper management and conduct of the business of the board of trustees, and of the district, and for carrying into effect the objects for which the reorganized common sewer district is formed.

2. The board of trustees of a reorganized common sewer district, subject to compliance with the exercise of lawful authority granted to or rules adopted by the clean water commission pursuant to section 644.026, RSMo, may exercise primary authority to adopt, modify, and repeal, and to administer and enforce rules and regulations with respect to:

(1) The establishment, construction, reconstruction, improvement, repair, operation, and maintenance of its sewer systems and treatment facilities;

(2) Industrial users discharging into its sewer systems or treatment facilities;

The establishment, operation, administration, and enforcement of a publicly owned treatment works pretreatment program consistent with state and federal pretreatment standards, including inspection, monitoring, sampling, permitting and reporting programs and activities. The board of trustees may, in addition to any pretreatment standards imposed under this section, require of any user of its treatment facilities such other pretreatment of industrial wastes as it deems necessary to adequately treat such wastes.

3. The rules and regulations adopted by the board of trustees pursuant to subsection 2 of this section shall be applicable, and enforceable by civil, administrative or other actions within any territory served by its sewer systems or treatment facilities and against any municipality, subdistrict, district or industrial user who shall directly or indirectly discharge sewage or permit discharge of sewage into the district's sewer system or treatment facilities.

4. The authority granted to the board by this section is in addition to and not in derogation of any other authority granted pursuant to the constitution and laws of Missouri, any federal water pollution control act, or the rules of any agency of federal or state government.

5. The term "industrial user", as used in this section shall mean any nondomestic source of discharge or indirect discharge into the district's wastewater system which is regulated under section 307(b), (c), or (d) of the Clean Water Act, or any source listed in division A, B, D, E, or I of the Standard Industrial Classification Manual, or any solid waste disposal operation such as, but not limited to, landfills, recycling facilities, solid or hazardous waste handling or disposal facilities and facilities which store or treat aqueous wastes as generated by facilities not located on site and which dispose of these wastes by discharging them into the district's wastewater system.

204.618. 1. It shall be the duty of the board of trustees of a reorganized common sewer district to make the necessary surveys, and to lay out and define the general plan for the construction and acquisition of land, rights-of-way and necessary sewers and treatment facilities and of any extensions, expansions, or improvements thereof within the district.

2. The board of trustees of a reorganized common sewer district may enter into agreements with each municipality, subdistrict, private district, or any industrial user which discharges sewage into trunk sewers, streams, or the treatment facilities of the reorganized common sewer district concerning the locations and the manner in which sewage may be discharged into the district system or streams within the district and concerning the permissible content of acid wastes, alkaline wastes, poisonous wastes, oils, grit, or other wastes which

might be hazardous or detrimental to the system. If no agreement is obtained with regard to any such matter the trustees shall refer the dispute to the clean water commission and the determination of the commission shall be binding upon the district, municipality, subdistrict, or private district. Each municipality, subdistrict, or private district shall control the discharge of wastes into its collection sewers to the extent necessary to comply with the agreement or the determination of the clean water commission. The board of trustees of a reorganized common sewer district or the governing body of any municipality, subdistrict, private district, or industrial user discharging sewage into the stream or the system may petition the circuit court which decreed the incorporation of the district for an order enforcing compliance with any provision of such an agreement or determination, and that circuit court shall have jurisdiction in all cases or questions arising out of the organization or operations of the district, or from the acts of the board of trustees.

3. The board of trustees may contract with each participating community for the payment of its proportionate share of treatment costs.

4. The board of trustees may contract with public agencies, individuals, private corporations, and political subdivisions, inside and outside the reorganized common sewer district to permit them to connect with and use the district's facilities according to such terms, conditions, and rates as the board determines are in the interest of the district and regardless of whether such agencies, individuals, corporations, and subdivisions are in the same natural drainage area or basins as the district. However, if such an area is located within the boundaries of an existing common sewer district or reorganized common sewer district organized and existing under this chapter, a sewer district organized and existing under chapter 249, RSMo, or a public water supply district organized under chapter 247, RSMo, the board of trustees must give written notice to said district before such a contract is entered into, and the district must consent to said contract.

5. The board of trustees may refuse to receive any wastes into the sewage system which do not meet relevant state or federal water pollution, solid waste, or pretreatment standards.

6. The board of trustees shall have all of the powers necessary and convenient to provide for the operation, maintenance, administration, and regulation, including the adoption of rules and regulations, of any individual home sewage or business treatment systems within the jurisdiction of the common sewer district. The board of trustees shall have the authority to declare the violation of any of its rules and regulations to be a misdemeanor punishable as provided by

law, or to declare violation of any of its rules and regulations punishable by imposition of a civil fine not to exceed one thousand dollars per day payable to the common sewer district, in addition to any other civil remedy which may be available at law or in equity.

7. The board of trustees shall have all of the powers necessary and convenient to provide for the operation and maintenance of its treatment facilities and the administration, regulation, and enforcement of its pretreatment program, including the adoption of rules and regulations, to carry out its powers with respect to all municipalities, subdistricts, districts, and industrial users which discharge into the collection system of the district's sewer system or treatment facilities. These powers include, but are not limited to:

- (1) The promulgation of any rule, regulation, or ordinance;
- (2) The issuance, modification, or revocation of any order;
- (3) The issuance, modification, or revocation of any permit;
- (4) The levying of a civil administrative fine upon any industrial user in violation of the district's rules, regulations, and ordinances, or any permit or order issued thereunder, in an amount not to exceed one thousand dollars per violation per day;
- (5) Commencing an action to counsel for appropriate legal or equitable relief in the circuit court which decreed the district's incorporation against any industrial user in violation of the district's rules, regulations, and ordinances or any permit or order issued thereunder; and
- (6) Petitioning the prosecutor for the county in which any criminal violation of the district's rules, regulations, ordinances or any permit or order issued thereunder has occurred to institute criminal proceedings.

8. The board of trustees may adopt rules and regulations creating procedural remedies for all persons affected by any order or permit issued, modified, or revoked or any fine or penalty levied by the board including but not limited to the grant of reasonable time periods for such persons to respond, to show cause, and to request reconsideration of fines or penalties levied.

9. Any person who knowingly makes any false statements, representations or certifications in any application, record, report, plan, or other document filed or required to be maintained pursuant to the district's rules, regulations, ordinances, or wastewater permit, or who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required under the district's rules, regulations, or ordinances shall, upon conviction, be punishable by a fine of not more than one thousand dollars per violation per day. In the event of a second violation, the person shall be fined not to exceed three thousand dollars per

violation per day. Third or subsequent violations of this subsection are punishable as a class D felony.

10. Whenever any reference is made in this section to any action that may be taken by the board of trustees, such reference includes such action by its executive officer pursuant to powers and duties delegated to such executive officer by the board of trustees.

204.620. 1. The board of trustees may acquire by purchase, gift or condemnation or may lease or rent any real or personal property and when condemnation is used shall follow the procedure that is provided by chapter 523, RSMo. All the powers may be exercised both within or without the district as may be necessary for the exercise of its powers or the accomplishment of its purposes. The board of trustees shall also have the same authority to enter upon private lands to survey land or other property before exercise of the above condemnation powers as is granted under section 388.210, RSMo, to railroad corporations.

2. The board of trustees of the reorganized common sewer district, if it is necessary to cross, follow or traverse public streets, roads or alleys, or grounds held or used as public parks or places, shall have the right to do so upon the following conditions: The board of trustees shall file with the county commission or mayor of the municipality having immediate jurisdiction over the street, road, alley, or public park, or place, a map showing the location and extent of the proposed occupancy for sewerage purposes and a plan of the proposed facilities, which plan shall be so made and arranged as not to interfere with the ordinary and lawful use of the street, road, alley, public park or place, except during a reasonable time for the construction of the necessary works.

3. The entire expense of the works and restoration of the ground occupied to its former condition, as near as may be, shall be borne by the reorganized common sewer district.

204.622. 1. The board of trustees for the reorganized common sewer district shall let contracts for all work to be done, excepting in case of repairs or emergencies requiring prompt attention, in the construction of sewers and sewage treatment plants, the expense of which will exceed 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. The board shall have the power and authority to reject any and all bids and readvertise the work.

2. The board of trustees shall also have the power to enter into agreements with persons, firms for 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.

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

(1) Through the expenditures by the common 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;

(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;

(4) From the proceeds of general obligation bonds of the reorganized common sewer district, payable solely from voter approved property taxes as provided for by law;

(5) From the proceeds of special obligation bonds of the reorganized common sewer district, payable solely special fees or other revenues received by the district pledged for the purposes of payment of such bonds; or

(6) From the proceeds of user fees, charges, or other imposition for facilities and services provided by the district to its customers and users or the availability of services provided to persons, users, and customers within the district or who otherwise benefit from services provided by the district.

204.626. 1. A reorganized common sewer district may issue general or special revenue bonds authorized by authority of a resolution adopted by the board of trustees of the reorganized common sewer district unless in addition thereto the decree or amended decree of incorporation shall require any such bonds to be approved by the voters of the district after election called for that purpose. The resolution shall recite that an estimate of the cost of the proposed acquisition, construction, improvement, extension, or other project has been made and shall set out the estimated cost; it shall set out the amount of the bonds proposed to be issued, their purposes, their dates, denominations, rates of interest, times of payment, both of principal and of interest, places of payment, and all other details in connection with the bonds.

2. The bonds may be subject to such provision for redemption prior to maturity, with or without premium, and at such times and upon such conditions

as may be provided by the board of trustees of the common sewer district.

3. The bonds shall bear interest at a rate in accordance with section 108.170, RSMo, and shall mature over a period not exceeding thirty-five years from the date thereof.

4. The bonds may be payable to bearer, may be registered or coupon bonds, and if payable to bearer may contain such registration privileges as to either principal and interest, or principal only, as may be provided in the resolution authorizing the bonds.

5. The bonds and the coupons to be attached thereto, if any, shall be signed in such manner and by such officers as may be directed by resolution. Bonds signed by an officer who shall hold the office at the time the bonds are signed shall be deemed validly and effectually signed for all purposes, regardless of whether or not any officer shall cease to hold his office prior to the delivery of the bonds and regardless of whether or not any officer shall have held or shall not have held such office on the date ascribed to the bonds.

6. The bonds shall be sold in such manner and upon such terms as the board of trustees of the reorganized common sewer district shall determine, but the bonds shall not be sold for less than ninety cents on the dollar nor shall they be sold at such a price that the interest cost upon the actual proceeds of the bonds from the date thereof to their maturity shall exceed a rate in accordance with section 108.170, RSMo. The resolution may provide that certain bonds authorized thereby shall be junior or subordinate in any or all respects to other revenue bonds authorized concurrently therewith or prior to or after such bonds.

204.628. Any user fees or charges, connection fees, or other charges levied by the reorganized common sewer district for purposes of funding its general or special operations, maintenance, or payment of bonded indebtedness or other indebtedness shall be due at such time or times as specified by the reorganized common sewer district, and shall, if not paid by the due date, become delinquent and shall bear interest from the date of delinquency until paid. In addition to and consistent with any other provision of applicable law, if such fees or charges or other amounts due become delinquent, they shall be a lien upon the land charged, upon the reorganized common sewer district filing with the recorder of deeds in the county where the land is situated a notice of delinquency. The reorganized common sewer district 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 foreclosure by power of sale hereby vested in the reorganized common district if the reorganized common sewer district adopts written rules for the

exercise of power of sale consistent with the provisions of sections 443.290 to 443.325, RSMo, which are recorded in the land records of the office of the recorder of deeds in each county in which the district is located; otherwise such lien shall be enforced by suit 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.

204.630. It shall be the mandatory duty of any reorganized common sewer district which shall issue any general or special revenue bonds pursuant to sections 204.600 to 204.640:

(1) To fix and maintain rates and make and collect charges for the use and services of the system, for the benefit of which revenue bonds were issued, sufficient to pay the cost of maintenance and operation thereof;

(2) To pay the principal of and the interest on all revenue bonds issued by the reorganized common sewer district chargeable to the revenues of the system; and

(3) To provide funds ample to meet all valid and reasonable requirements of the resolution by which the revenue bonds have been issued.

The rates shall be from time to time revised so as fully to meet the requirements of sections 204.600 to 204.640. As long as any bond so issued or the interest thereon shall remain outstanding and unpaid, rates and charges sufficient to meet the requirements of this section shall be maintained and collected by the reorganized common sewer district which issued the bonds.

204.632. 1. Whenever any reorganized common sewer district authorizes and issues revenue bonds pursuant to sections 204.600 to 204.640, an amount sufficient for the purpose of the net revenues of the sewerage system for the benefit of which the bonds are issued shall, by operation of sections 204.600 to 204.640, be pledged to the payment of the principal of and the interest on the bonds as the same shall mature and accrue.

2. The term "net revenues" shall be construed to mean all income and revenues derived from the ownership and operation of the system less the actual and necessary expenses of operation and maintenance of the system.

3. It shall be the mandatory duty of the treasurer of the reorganized common sewer district to provide for the prompt payment of the principal and interest on any revenue bonds as they mature and accrue.

204.634. 1. The resolution of the board of trustees of the reorganized common sewer district authorizing the issuance of revenue bonds under the authority of sections 204.600 to 204.640 may provide that periodic allocations of the revenues to be derived from the operation of the system for the benefit of which the bonds are issued shall be made into such accounts, separate and apart from any other accounts of the district, as shall be deemed to be advisable to assure the proper operation and maintenance of the system and the prompt payment of the indebtedness chargeable to the revenues of the system. The accounts may include, but shall not be limited to:

(1) An account for the purpose of providing funds for the operation and maintenance of the system;

(2) An account to provide funds for the payment of the bonds as to principal and interest as they come due;

(3) An account to provide an adequate reserve for depreciation, to be expended for replacements of the system;

(4) An account for the accumulation of a reserve to assure the prompt payment of the bonds and the interest thereon whenever and to the extent that other funds are not available for the purpose;

(5) An account to provide funds for contingent expenses in the operation of the system;

(6) An account to provide for the accumulation of funds for the construction of extensions and improvements to the system; and

(7) Such other accounts as may be desirable in the judgment of the board of trustees.

2. The resolution may also establish such limitations as may be expedient upon the issuance of additional bonds, payable from the revenues of the system, or upon the rights of the holders of such additional bonds. Such resolution may include other agreements with the holders of the bonds or covenants or restrictions necessary or desirable to safeguard the interests of the bondholder and to secure the payment of the bonds and the interest thereon.

204.636. For the purpose of refunding, extending, and unifying the whole or any part of any valid outstanding bonded indebtedness payable from the revenues of a sewerage system, any reorganized common sewer district may issue refunding bonds not exceeding in amount the principal of the outstanding indebtedness to be refunded and the accrued interest to the date of the refunding bonds. The board of trustees of the reorganized common sewer district shall provide for the payment of interest at not to exceed the same rate and the principal of the refunding bonds in the same manner and from the same source as was provided

for the payment of interest on and principal of the bonds to be refunded.

204.638. The board of trustees of the reorganized common sewer district may apply for and accept grants or funds, material or labor, from the state and federal government, or any departments thereof, in the construction of a sewerage system as provided by sections 204.600 to 204.640, and may enter into such agreements as may be required of the state or federal laws, or the rules and regulations of any federal or state department, to which the application is made, and where the assistance is granted.

204.640. It is hereby made the duty of the mayors of cities, the circuit court, the governing bodies of counties, all political subdivisions and all assessors, sheriffs, collectors, treasurers, and other officials in the state of Missouri to do and perform all the acts and to render all the services necessary to carry out the purposes of sections 204.600 to 204.640.

204.650. Sections 204.650 to 204.672 shall be known and may be cited as the "Sanitary Sewer Improvement Area 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 sanitary sewer improvement area 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 common sewer district", any public sanitary sewer district or reorganized common sewer district established and existing pursuant to this chapter or chapter 249, RSMo, and any metropolitan sewer district organized pursuant to 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 204.650 to 204.672;

(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 area", an area of a district with defined limits and boundaries which is created by petition pursuant to sections 204.650 to 204.672 and which is benefited 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 periodic installments to pay for improvements made in a sanitary sewer improvement area which benefit the property within such area that is subject to the assessment.

204.652. As an alternative to all other methods provided by law or charter, the board of trustees of any sewer district or reorganized sewer district organized and operated pursuant to this chapter or chapter 249, RSMo, or any metropolitan sewer district organized pursuant to the constitution of this state, may make, or cause to be made, improvements which confer a benefit upon property within a sanitary sewer improvement area pursuant to sections 204.650 to 204.672. The board of trustees of such district may incur indebtedness and issue temporary notes and general or special revenue bonds pursuant to sections 204.650 to 204.672 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 area's improvements, but separate funds or accounts shall be established within the records of the district for each improvement project as provided in sections 204.650 to 204.672. Such district shall make assessments and may impose user fees on the property deemed by the board of trustees to be benefited by each such improvement project pursuant to sections 204.650 to 204.672 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.

204.654. 1. To establish a sanitary sewer improvement area, the governing body of the sewer district shall comply with the following procedure: the governing body of the district may create a sanitary sewer improvement area when a proper petition has been signed by four-sevenths of the owners of record within such proposed area. The petition, in order to become effective, shall be filed with the district. A proper petition for the creation of a sanitary sewer improvement area 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 area 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 improvement area, the proposed method or methods of imposing assessments and, if known, proposed estimated user fees within the district, and shall also state that the final cost of such improvement within the sanitary sewer improvement area 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 area shall be described by metes and bounds, streets or other sufficiently specific description.

204.656. The portion of the cost of any improvement to be assessed or imposed against the real property in a sanitary sewer improvement area shall be apportioned against such property in accordance with the benefits accruing thereto by reason of such improvement. Subject to the provisions of the farmland protection act, sections 262.800 to 262.810, RSMo, the cost may be assessed equally by lot or tract, against property within the area, 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 benefited. The board of trustees of the district may from time to time determine and establish by ordinance or resolution reasonable general classifications and formula for the methods of assessing or determining the benefits.

204.658. 1. After the board of trustees has made the findings specified in sections 204.650 to 204.672 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 benefited 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 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 sanitary sewer improvement area 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.

204.660. 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 204.650 to 204.672.

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 benefited 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 to pay for the improvement, as special 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 each assessment and imposition of the assessment lien together with a legal description for each property assessed within the area shall be filed with the recorder of deeds upon the effective date of the ordinance or resolution, but failure to timely record any 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 special assessments shall be assessed upon the property within the area 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 prescribed by the resolution or ordinance establishing the special assessments. 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 special assessments and the date the first installment of a user fee is payable shall be added to the first installment or prorated among 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.

204.662. No suit to set aside the assessments made pursuant to sections 204.680 to 204.730 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 the last known owners of record of the assessments required by sections 204.650 to 204.672.

204.664. 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 improvement area, except that such supplemental or additional assessments shall not, without a new petition as provided in sections 204.650 to 204.672, exceed twenty-five percent of the estimated cost of the improvement as set forth in the petition pursuant to the provisions of sections 204.650 to 204.672.

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.

204.666. An assessment authorized pursuant to sections 204.650 to 204.672, 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 sections 204.650 to 204.672 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, and in addition to any other remedy the district may have by statute or duly enacted regulation for the collection of delinquent amounts owed to the district, 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.

204.668. After an improvement has been authorized pursuant to sections 204.650 to 204.672, 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 area or district, or from special revenues from designated properties within an area.

204.670. 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 sections 204.650 to 204.672, 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.

204.672. Any public sanitary sewer district or reorganized sewer district organized and operated pursuant to this chapter or chapter 249, RSMo, and any metropolitan sewer district organized pursuant to 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.

Bill

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