

FIRST REGULAR SESSION

# SENATE BILL NO. 196

95TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR SHOEMYER.

Read 1st time January 14, 2009, and ordered printed.

TERRY L. SPIELER, Secretary.

1060S.011

## AN ACT

To repeal section 247.031, RSMo, and to enact in lieu thereof one new section relating to detachment from public water supply districts.

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

Section A. Section 247.031, RSMo, is repealed and one new section  
2 enacted in lieu thereof, to be known as section 247.031, to read as follows:

247.031. 1. Territory included in a district that is not being served by  
2 such district may be detached from such district provided that there are no  
3 outstanding general obligation or special obligation bonds and no contractual  
4 obligations of greater than twenty-five thousand dollars for debt that pertains to  
5 infrastructure, fixed assets or obligations for the purchase of water. If any such  
6 bonds or debt is outstanding, and the written consent of the holders of such bonds  
7 or the creditors to such debt is obtained, then such territory may be detached in  
8 spite of the existence of such bonds or debt, except such consent shall not be  
9 required for special obligation bonds if the district has no water lines or other  
10 facilities located within any of the territory detached. Detachment may be made  
11 by the filing of a petition with the circuit court in which the district was  
12 incorporated. The petition shall contain a description of the tract to be detached  
13 and a statement that the detachment is in the best interest of the district or the  
14 inhabitants and property owners of the territory to be detached, together with the  
15 facts supporting such allegation. The petition may be submitted by the district  
16 acting through its board of directors, in which case the petition shall be signed  
17 by a majority of the board of directors of the district. The petition may also be  
18 submitted by voters residing in or by landowners owning land in the territory  
19 sought to be detached. If there are more than ten voters and landowners in such

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

20 territory, the petition shall be signed by five or more voters or landowners within  
 21 the territory; if there are less than ten voters and landowners within such  
 22 territory, the petition shall be signed by fifty percent or more of the voters and  
 23 landowners within the territory. In the event there are no voters living within  
 24 such territory proposed to be detached, then the petition may be submitted by  
 25 owners of more than fifty percent of the land in the territory proposed to be  
 26 detached, in which case said petition shall be signed by the owners so submitting  
 27 the petition. **In the event the petition is not submitted by the district**  
 28 **acting through its board of directors, the petitioner shall name the**  
 29 **district as a defendant and a copy of the petition shall be served upon**  
 30 **the district at least thirty-five days before the date of the hearing of the**  
 31 **petition.**

32 2. Such petition shall be filed in the circuit court having jurisdiction and  
 33 the court shall set a date for hearing on the proposed detachment and the clerk  
 34 **of the circuit court shall give notice [thereof] of the filing of the petition**  
 35 **in a newspaper of general circulation in the county in which the**  
 36 **proceedings are pending and in a newspaper of general circulation in**  
 37 **the territory proposed to be detached. Such notice shall be published**  
 38 in three consecutive issues of a weekly newspaper [in each county in which any  
 39 portion of the territory proposed to be detached lies], or in lieu thereof, in twenty  
 40 consecutive issues of a daily newspaper [in each county in which any portion of  
 41 the tract proposed to be detached lies;]. The last insertion of the notice [to] **shall**  
 42 be made not less than seven nor more than twenty-one days before the hearing  
 43 **date.** Such notice shall be substantially as follows:

44 IN THE CIRCUIT COURT OF  
 45 ..... COUNTY, MISSOURI  
 46 NOTICE OF THE FILING OF A PETITION FOR  
 47 TERRITORIAL DETACHMENT FROM  
 48 PUBLIC WATER SUPPLY DISTRICT NO. ....  
 49 OF ..... COUNTY, MISSOURI.

50 To all voters and landowners of land within the boundaries of the  
 51 above-described district:

52 You are hereby notified:

53 1. That a petition has been filed in this court for the detachment of the  
 54 following tracts of land from the above-named public water supply district, as  
 55 provided by law:

56 (Describe tracts of land).

57 2. That a hearing on said petition will be held before this court in ..... on  
58 the ..... day of ....., 20 ..., at ....., ...m.

59 3. Exceptions or objections to the detachment of said tracts from said  
60 public water supply district may be made by **the district or** any voter or  
61 landowner of land within the district from which territory is sought to be  
62 detached, provided such exceptions or objections are in writing, **specify the**  
63 **grounds on which they are made, and are filed with the court** not [less]  
64 **later** than five days prior to the date [set for] **of the** hearing [on] **of** the petition.

65 4. The names and addresses of the attorneys for the petitioner are:  
66 .....  
67 Clerk of the Circuit Court of  
68 ..... County, Missouri

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

71 4. Exceptions or objections to the detachment of such territory may be  
72 made by any voter or landowner within the boundaries of the district, including  
73 the territory to be detached. **[The] In the event the petition is not**  
74 **submitted by the district acting through its board of directors, the**  
75 **district may file exceptions or objections.** Exceptions or objections shall be  
76 in writing [and], shall specify the grounds upon which they are made, and shall  
77 be filed not later than five days before the date set for hearing the petition. [If  
78 any such exceptions or objections are filed, the court shall take them into  
79 consideration when considering the petition for detachment and the evidence in  
80 support of detachment] **In considering the petition for detachment, the**  
81 **court shall take into consideration the evidence in support of and**  
82 **opposition to the petition, including such exceptions and objections.** If  
83 the court finds that the detachment will be in the best interest of the district and  
84 the inhabitants and landowners of the area to be detached will not be adversely  
85 affected or if the court finds that the detachment will be in the best interest of  
86 the inhabitants and landowners of the territory to be detached and will not  
87 adversely affect the remainder of the district, it shall approve the detachment and  
88 grant the petition.

89 5. If the court approves the detachment, it shall make its order detaching  
90 the territory described in the petition from the remainder of the district, or in the  
91 event it shall find that only a portion of said territory should be detached, the

92 court shall order such portion detached from the district. The court shall also  
93 make any changes in subdistrict boundary lines it deems necessary to meet the  
94 requirements of sections 247.010 to 247.220. Any subdistrict line changes shall  
95 not become effective until the next annual election of a member of the board of  
96 directors.

97           6. A certified copy of the court's order shall be filed in the office of the  
98 recorder **of deeds** and in the office of the county clerk in each county in which  
99 any of the territory of the district prior to detachment is located, and in the office  
100 of the secretary of state. Costs of the proceeding shall be borne by the petitioner  
101 or petitioners.

Unofficial ✓

Bill

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