

FIRST REGULAR SESSION

# SENATE BILL NO. 333

95TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR BARNITZ.

Read 1st time February 9, 2009, and ordered printed.

TERRY L. SPIELER, Secretary.

1764S.011

## AN ACT

To repeal section 204.472, RSMo, and to enact in lieu thereof one new section relating to sewer service for certain annexed areas.

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

Section A. Section 204.472, RSMo, is repealed and one new section  
2 enacted in lieu thereof, to be known as section 204.472, to read as follows:

204.472. 1. (1) Whenever all or any part of a territory located within a  
2 sewer district that is located in any county of the third classification without a  
3 township form of government and with more than forty thousand eight hundred  
4 but less than forty thousand nine hundred inhabitants is included by annexation  
5 within the corporate limits of any city of the third classification with more than  
6 sixteen thousand six hundred but less than sixteen thousand seven hundred  
7 inhabitants, but is not receiving sewer service from such district or city at the  
8 time of such annexation, the city and the board of trustees of the district may,  
9 within six months after such annexation becomes effective, develop an agreement  
10 to provide sewer service to the annexed territory. Such an agreement may also  
11 be developed for territory that was annexed between January 1, 1996, and August  
12 28, 2002, but was not receiving sewer service from such district or such city on  
13 August 28, 2002. For the purposes of this section, "not receiving sewer service"  
14 shall mean that no sewer services are being sold within the annexed territory by  
15 such district or city. If the city and the board reach an agreement that detaches  
16 any territory from such district, the agreement shall be submitted to the circuit  
17 court having jurisdiction over the major portion, and the circuit court shall make  
18 an order and judgment detaching the territory described in the agreement from  
19 the remainder of the district and stating the boundary lines of the district after  
20 such detachment. At such time that the circuit court's order and judgment

21 becomes final, the clerk of the circuit court shall file certified copies of such order  
22 and judgment with the secretary of state and with the recorder of deeds and the  
23 county clerk of the county or counties in which the district is located. If an  
24 agreement is developed between a city and a sewer district pursuant to this  
25 subsection, subsections 2 to 8 of this section shall not apply to such agreement.

26 **(2) Whenever all or any part of a territory located within a sewer**  
27 **district that is located in any county of the third classification is**  
28 **included by annexation within the corporate limits of any city, but is**  
29 **not receiving sewer service from such district or city at the time of**  
30 **such annexation, the city and the board of trustees of the district may,**  
31 **within six months after such annexation becomes effective, develop an**  
32 **agreement to provide sewer service to the annexed territory. Such an**  
33 **agreement may also be developed for territory that was annexed**  
34 **between January 1, 1991, and August 28, 2009, but was not receiving**  
35 **sewer service from such district or such city on August 28, 2009. For**  
36 **the purposes of this section, "not receiving sewer service" shall mean**  
37 **that no sewer services are being sold within the annexed territory by**  
38 **such district or city. If the city and the board reach an agreement that**  
39 **detaches any territory from such district, the agreement shall be**  
40 **submitted to the circuit court having jurisdiction over the major**  
41 **portion, and the circuit court shall make an order and judgment**  
42 **detaching the territory described in the agreement from the remainder**  
43 **of the district and stating the boundary lines of the district after such**  
44 **detachment. At such time that the circuit court's order and judgment**  
45 **becomes final, the clerk of the circuit court shall file certified copies**  
46 **of such order and judgment with the secretary of state and with the**  
47 **recorder of deeds and the county clerk of the county or counties in**  
48 **which the district is located. If an agreement is developed between a**  
49 **city and a sewer district pursuant to this subsection, subsections 2 to**  
50 **8 of this section shall not apply to such agreement.**

51 2. In the event that the board of trustees of such district and the city  
52 cannot reach such an agreement, an application may be made by the board or the  
53 city to the circuit court requesting that three commissioners develop such an  
54 agreement. Such application shall include the name of one commissioner  
55 appointed by the applying party. The second party shall appoint one  
56 commissioner within thirty days of the service of the application upon the second  
57 party. If the second party fails to appoint a commissioner within such time

58 period, the circuit court shall appoint a commissioner on behalf of the second  
59 party. Such two named commissioners may agree to appoint a third disinterested  
60 commissioner within thirty days after the appointment of the second  
61 commissioner. In the event that the two named commissioners cannot agree on  
62 or fail to appoint the third disinterested commissioner within thirty days after  
63 the appointment of the second commissioner, the circuit court shall appoint the  
64 third disinterested commissioner.

65 3. Upon the filing of such application and the appointment of three such  
66 commissioners, the circuit court shall set a time for one or more hearings and  
67 shall order a public notice including the nature of the application, the annexed  
68 area affected, the names of the commissioners, and the time and place of such  
69 hearings, to be published for three weeks consecutively in a newspaper published  
70 in the county in which the application is pending, the last publication to be not  
71 more than seven days before the date set for the first hearing.

72 4. The commissioners shall develop an agreement between the district and  
73 the city to provide sewer service to the annexed territory. In developing the  
74 agreement, the commissioners shall consider information presented to them at  
75 hearings and any other information at their disposal including, but not limited  
76 to:

77 (1) The estimated future loss of revenue and costs for the sewer district  
78 related to the agreement;

79 (2) The amount of indebtedness of the sewer district within the annexed  
80 territory;

81 (3) Any contractual obligations of the sewer district within the annexed  
82 area; and

83 (4) The effect of the agreement on the sewer rates of the district.

84 The agreement shall also include a recommendation for the apportionment of  
85 costs incurred pursuant to subsections 2 to 8 of this section, including reasonable  
86 compensation for the commissioners, between the city and the district.

87 5. If the circuit court finds that the agreement provides for necessary  
88 sewer service in the annexed territory, then such agreement shall be fully  
89 effective upon approval by the circuit court. The circuit court shall also review  
90 the recommended apportionment of court costs incurred and the reasonable  
91 compensation for the commissioners and affirm or modify such recommendations.

92 6. The order and judgment of the circuit court shall be subject to appeal  
93 as provided by law.

94           7. If the circuit court approves a detachment as part of the territorial  
95 agreement, it shall make its order and judgment detaching the territory described  
96 in the application from the remainder of the district and stating the boundary  
97 lines of the district after such detachment.

98           8. At such time that the circuit court's order and judgment becomes final,  
99 the clerk of the circuit court shall file certified copies of such order and judgment  
100 with the secretary of state and with the recorder of deeds and the county clerk of  
101 the county or counties in which the district is located.

102           9. The proportion of the sum of all outstanding bonds and debt, with  
103 interest thereon, that is required to be paid to the sewer district pursuant to this  
104 section, shall be the same as the proportion of the assessed valuation of the real  
105 and tangible personal property within the area sought to be detached bears to the  
106 assessed valuation of all of the real and tangible personal property within the  
107 entire area of the sewer district.

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Bill

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