

SECOND REGULAR SESSION
SENATE COMMITTEE SUBSTITUTE FOR
HOUSE BILL NO. 1612
95TH GENERAL ASSEMBLY

Reported from the Committee on Jobs, Economic Development and Local Government, April 15, 2010, with recommendation that the Senate Committee Substitute do pass and be placed on the Consent Calendar.

4316S.02C

TERRY L. SPIELER, Secretary.

AN ACT

To repeal sections 204.300, 204.472, 204.571, and 250.233, RSMo, and to enact in lieu thereof four new sections relating to sewer districts.

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

Section A. Sections 204.300, 204.472, 204.571, and 250.233, RSMo, are
2 repealed and four new sections enacted in lieu thereof, to be known as sections
3 204.300, 204.472, 204.571, and 250.233, to read as follows:

204.300. 1. In all counties except counties of the first classification which
2 have a charter form of government and which contain all or any portion of a city
3 with a population of three hundred fifty thousand or more inhabitants, the
4 governing body of the county, by resolution, order, or ordinance, shall appoint five
5 trustees, the majority of whom shall reside within the boundaries of the district.
6 In the event the district extends into any county bordering the county in which
7 the greater portion of the district lies, the presiding commissioner or other chief
8 executive officer of the adjoining county shall be an additional member of the
9 appointed board of trustees. The trustees may be paid reasonable compensation
10 by the district for their services; except that, any compensation schedule shall be
11 approved by resolution of the board of trustees. The board of trustees shall be
12 responsible for the control and operation of the sewer district. The term of each
13 board member shall be five years; except that, members of the governing body of
14 the county sitting upon the board shall not serve beyond the expiration of their
15 term as members of such governing body of the county. The first board of
16 trustees shall be appointed for terms ranging from one to five years so as to
17 establish one vacancy per year thereafter. **If the governing body of the**

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

18 **county with the right of appointment under this section fails to appoint**
19 **a trustee to fill a vacancy on the board within sixty days after receiving**
20 **written notice from the common sewer district of the existence of such**
21 **vacancy, then the vacancy may be filled by a majority of the remaining**
22 **members then in office of the board of trustees of such common sewer**
23 **district.** The trustees may be paid reasonable compensation by the district for
24 their services; except that, any compensation schedule shall be approved by
25 resolution, order, or ordinance of the governing body of the county. Any and all
26 expenses incurred in the performance of their duties shall be reimbursed by the
27 district. The board of trustees shall have the power to employ and fix the
28 compensation of such staff as may be necessary to discharge the business and
29 purposes of the district, including clerks, attorneys, administrative assistants,
30 and any other necessary personnel. The board of trustees shall select a treasurer,
31 who may be either a member of the board of trustees or another qualified
32 individual. The treasurer selected by the board shall give such bond as may be
33 required by the board of trustees. The board of trustees shall appoint the sewer
34 engineer for the county in which the greater part of the district lies as chief
35 engineer for the district, and the sewer engineer shall have the same powers,
36 responsibilities and duties in regard to planning, construction and maintenance
37 of the sewers, and treatment facilities of the district as he now has by virtue of
38 law in regard to the sewer facilities within the county for which he is elected. If
39 there is no sewer engineer in the county in which the greater part of the district
40 lies, the board of trustees may employ a registered professional engineer as chief
41 engineer for the district under such terms and conditions as may be necessary to
42 discharge the business and purposes of the district. The provisions of this
43 subsection shall not apply to any county of the first classification which has a
44 charter form of government and which contains all or any portion of a city with
45 a population of three hundred fifty thousand or more inhabitants.

46 2. In any county of the first classification which has a charter form of
47 government and which contains all or any portion of a city with a population of
48 three hundred fifty thousand or more inhabitants, and in any county of the first
49 classification without a charter form of government and which has a population
50 of more than sixty-three thousand seven hundred but less than seventy-five
51 thousand, there shall be ~~[an eight-member]~~ **a ten-member** board of trustees to
52 consist of the county executive, the mayors of the ~~[four]~~ **five** cities constituting
53 the largest users by flow during the previous fiscal year, the mayors of ~~[two]~~

54 **three** cities which are not among the [~~four~~] **five** largest users and who are
55 members of the advisory board of the district established pursuant to section
56 204.310, and one member of the county legislature to be appointed by the county
57 executive, with the concurrence of the county legislature. If the county executive
58 does not appoint such members of the county legislature to the board of trustees
59 within sixty days, the county legislature shall make the appointments. The
60 advisory board members shall be appointed annually by the advisory board. In
61 the event the district extends into any county bordering the county in which the
62 greater portion of the district lies, the number of members on the board of
63 trustees shall be increased to a total of [~~nine~~] **eleven** and the presiding
64 commissioner or county executive of the adjoining county shall be an additional
65 member of the board of trustees. The trustees shall receive no compensation for
66 their services, but may be compensated for their reasonable expenses normally
67 incurred in the performance of their duties. The board of trustees may employ
68 and fix the compensation of such staff as may be necessary to discharge the
69 business and purposes of the district, including clerks, attorneys, administrative
70 assistants, and any other necessary personnel. The board of trustees may employ
71 and fix the duties and compensation of an administrator for the district. The
72 administrator shall be the chief executive officer of the district subject to the
73 supervision and direction of the board of trustees and shall exercise the powers,
74 responsibilities and duties heretofore exercised by the chief engineer prior to
75 September 28, 1983. The administrator of the district may, with the approval of
76 the board of trustees, retain consulting engineers for the district under such
77 terms and conditions as may be necessary to discharge the business and purposes
78 of the district. The provisions of this subsection shall only apply to counties of
79 the first classification which have a charter form of government and which
80 contain all or any portion of a city with a population of three hundred fifty
81 thousand or more inhabitants.

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 prior**
34 **to August 28, 2010, but was not receiving sewer service from such**
35 **district or such city as of August 28, 2010. For the purposes of this**
36 **section, "not receiving sewer service" shall mean that no sewer services**
37 **are being sold within the annexed territory by such district or city. If**
38 **the city and the board reach an agreement that detaches any territory**
39 **from such district, the agreement shall be submitted to the circuit court**
40 **having jurisdiction over the major portion, and the circuit court shall**
41 **make an order and judgment detaching the territory described in the**
42 **agreement from the remainder of the district and stating the boundary**
43 **lines of the district after such detachment. At such time that the**
44 **circuit court's order and judgment becomes final, the clerk of the**

45 **circuit court shall file certified copies of such order and judgment with**
46 **the secretary of state and with the recorder of deeds and the county**
47 **clerk of the county or counties in which the district is located. If an**
48 **agreement is developed between a city and a sewer district pursuant**
49 **to this subsection, subsections 2 to 8 of this section shall not apply to**
50 **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.

204.571. An authorized representative, not a member of the common
2 sewer district's advisory board under section 204.310, from each political
3 subdivision which lies partially within a sewer subdistrict formed pursuant to
4 sections 204.565 to 204.573 and which operates or is served by a sewage collection
5 system, together with the representatives of all other such political subdivisions
6 and of each county having territory within the subdistrict, shall constitute an
7 advisory board for the subdistrict. The advisory board shall organize by electing
8 one of its members as chairman, one as vice chairman, and one as a
9 representative to the common sewer district's advisory board formed pursuant to

10 section 204.310, **however, if the subdistrict advisory board consists of less**
11 **than three members, then one subdistrict advisory board member may**
12 **serve in more than one such capacity.** The board of trustees of the common
13 sewer district shall keep the subdistrict advisory board informed, either directly
14 or through the district advisory board, as to all phases of the planning and
15 operations of the subdistrict, and the subdistrict advisory board shall make such
16 recommendations to the common sewer district advisory board as the subdistrict
17 board deems advisable with regard to the construction and operation of sewers
18 and facilities in the subdistrict. **If a county or political subdivision with**
19 **the right of appointment under this section fails to appoint any**
20 **subdistrict advisory board member within sixty days after receiving a**
21 **written request from the common sewer district, then the board of**
22 **trustees of the common sewer district may make such appointment.**

250.233. Any city, town [or], village, **or sewer district** operating a
2 sewerage system or waterworks may establish, make and collect charges for
3 sewerage services, including tap-on fees. The charges may be set as a flat fee or
4 based upon the amount of water supplied to the premises and shall be in addition
5 to those charges which may be levied and collected for maintenance, repair and
6 administration, including debt service expenses. Any private water company or
7 public water supply district supplying water to the premises located within said
8 city, town [or], village, **or sewer district** shall, at reasonable charge upon
9 reasonable request, make available to such city, town [or], village, **or sewer**
10 **district** its records and books so that such city, town [or], village, **or sewer**
11 **district** may obtain therefrom such data as may be necessary to calculate the
12 charges for sewer service. Prior to establishing any such sewer charges, public
13 hearings shall be held thereon and at least thirty days' notice shall be given
14 thereof.

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