

FIRST REGULAR SESSION

[P E R F E C T E D]

# SENATE BILL NO. 497

98TH GENERAL ASSEMBLY

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INTRODUCED BY SENATOR HEGEMAN.

Read 1st time February 24, 2015, and ordered printed.

Read 2nd time February 24, 2015, and referred to the Committee on Jobs, Economic Development and Local Government.

Reported from the Committee April 16, 2015, with recommendation that the bill do pass.

Taken up for Perfection April 27, 2015. Bill declared Perfected and Ordered Printed, as amended.

ADRIANE D. CROUSE, Secretary.

2194L.01P

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## AN ACT

To repeal sections 67.950, 67.955, 393.015, and 644.145, RSMo, and to enact in lieu thereof five new sections relating to special purpose districts.

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

Section A. Sections 67.950, 67.955, 393.015, and 644.145, RSMo, are  
2 repealed and five new sections enacted in lieu thereof, to be known as sections  
3 67.950, 67.955, 393.015, 644.145, and 1, to read as follows:

67.950. 1. Any special purpose district formed under the provisions of a  
2 statute of this state requiring approval by the voters of the district, and for which  
3 no specific procedure is provided to terminate or dissolve such a district, may be  
4 dissolved [in the following manner:

5 (1) Upon the filing with the governing body of the district of a petition  
6 containing the signatures of eight percent or more of the voters of the district or  
7 upon the motion of a majority of the members of the governing body it shall  
8 submit the question to the voters in the district using the same procedure and in  
9 the same manner so far as practicable as is provided for the submission of the  
10 question for forming the district.

11 (2)] **as provided in this section and section 67.955.**

12 2. **A petition describing the boundaries of the district sought to**  
13 **be dissolved shall be filed with the clerk of the circuit court of the**  
14 **county in which the subject district is located or, if the subject district**  
15 **embraces lands in more than one county, with the clerk of the circuit**

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

16 court of the county having the largest acreage within the boundaries  
17 of the subject district. Such petition, in addition to such boundary  
18 description, shall allege that further operation of the subject district  
19 is inimical to the best interests of the inhabitants of the district and  
20 that the district should, in the interest of the public welfare and safety,  
21 be dissolved, and such other information as may be useful to the court  
22 in determining whether the petition should be granted and a decree of  
23 dissolution entered. Such petition shall also include a detailed plan for  
24 payment of all debt and obligations of the district at the time of  
25 dissolution. Such petition shall be accompanied by a cash deposit of  
26 fifty dollars as an advancement of the costs of the proceeding, and the  
27 petition shall be signed by eight percent or more of the voters of the  
28 district. The petition shall be verified by at least one of the signers  
29 thereof and shall be served upon the governing board of the  
30 district. The district shall be a party, and if the governing board in its  
31 discretion determines that such dissolution is not in the public interest,  
32 the district shall oppose such petition and pay all cost and expense  
33 thereof.

34       3. Upon the filing of the petition, the petition shall be presented  
35 to the circuit court and such court shall fix a date for a hearing on such  
36 petition. The clerk of the court shall give notice of the filing of the  
37 petition in some newspaper of general circulation in the county in  
38 which the proceedings are pending, and if the district extends into any  
39 other county or counties, such notice shall also be published in some  
40 newspaper of general circulation in such other county or counties. The  
41 notice shall contain a description of the subject boundary lines of the  
42 district and the general purposes of the petition, and shall set forth the  
43 date fixed for the hearing on the petition, which shall not be less than  
44 seven nor more than twenty-one days after the date of the last  
45 publication of the notice and shall be on some regular judicial day of  
46 the court in which the petition is pending. Such notice shall be signed  
47 by the clerk of the circuit court and shall be published in three  
48 successive issues of a weekly newspaper or in twenty successive issues  
49 of a daily newspaper.

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

52       5. Exceptions to the dissolution of a district may be made by any

53 voter or landowner of the district, and by the district as provided in  
54 this section. Such exceptions shall be filed not less than five days prior  
55 to the date set for the hearing on the petition. Such exceptions shall  
56 specify the grounds upon which the exceptions are filed, and the court  
57 shall take them into consideration in passing upon the petition and  
58 shall also consider the evidence in support of the petition and in  
59 support of the exceptions made. Unless petitioners prove that all debts  
60 and financial obligations of the district can be paid in full upon  
61 dissolution, the petition shall be dismissed at the cost of the  
62 petitioners.

63       6. Should the court find that it would not be to the public  
64 interest to dissolve a district, the petition shall be dismissed at the  
65 costs of the petitioners. If, however, the court should find in favor of  
66 the petitioners, the court shall enter its interlocutory decree of  
67 dissolution, which decree shall provide for the submission of the  
68 question to the voters of the district. The decree of dissolution shall  
69 not become final and conclusive until it has been submitted to the  
70 voters residing within the boundaries described in such decree and  
71 approved by a majority of the votes cast. The decree shall provide for  
72 the submission of the question and shall fix the date thereof.

73       7. The question shall be submitted in substantially the following form:

74       Shall the ..... district be dissolved?

75       [(3) If the question receives a majority of the votes cast the district shall  
76 be dissolved for all purposes except the payment of outstanding bonded  
77 indebtedness, if any]

78       8. The returns shall be certified by the election authority to the  
79 circuit court having jurisdiction in the case. Upon receiving such  
80 certification, the court shall enter its order canvassing the returns and  
81 declaring the result of such election. If a majority of the votes cast on  
82 the question by the qualified voters voting thereon are in favor of the  
83 question, then the court shall, in such order declaring the result of the  
84 election, enter a further order declaring the decree of dissolution to be  
85 final and conclusive. If a majority of the votes cast on the question by  
86 the qualified voters voting thereon are opposed to the question, then  
87 the court shall enter a further order declaring such decree of  
88 dissolution to be void and of no effect. No appeal shall lie from any of  
89 such orders. In the event that the court declares the decree of

90 **dissolution to be final as provided in this subsection, the clerk of the**  
91 **circuit court shall file certified copies of such decree of dissolution and**  
92 **of such final order with the secretary of state, the recorder of deeds of**  
93 **the county or counties in which the district is located, and with the**  
94 **clerk of the county commission of the county or counties in which the**  
95 **district is located.**

96 **9. Notwithstanding any other provision of law in this section to**  
97 **the contrary, no district shall be dissolved until all of its outstanding**  
98 **indebtedness has been paid, and the court in its decree of dissolution**  
99 **shall provide for the disposition of the remaining property of the**  
100 **district.**

67.955. **Subject to any decree of dissolution entered under section**  
2 **67.950**, the governing body, upon passage of a proposition to dissolve, shall  
3 dispose of all assets of the district and apply all proceeds to the payment of all  
4 indebtedness of the district and if any funds are left after such liquidation they  
5 shall be paid to the taxpayers of the district. Such payments shall be computed  
6 on the ratio of each taxpayer's tax paid in to the total tax collected for the last  
7 taxable year for which the district collected taxes. The liquidation, payments and  
8 refunds shall be completed within one hundred twenty days after the date of the  
9 submission of the question, and the district shall cease to exist; except that if  
10 general obligation bonded indebtedness exists the district shall continue to exist  
11 solely for the purpose of levying and collecting taxes to pay such indebtedness.

393.015. 1. Notwithstanding any other provision of law to the contrary,  
2 any sewer corporation, municipality or sewer district established under the  
3 provisions of chapter 249 or 250, or sections 204.250 to 204.470, or any sewer  
4 district created and organized pursuant to constitutional authority, may contract  
5 with any water corporation, **any municipality providing water, or any**  
6 **water districts established under chapter 247, which for purposes of**  
7 **this section shall collectively be designated as a water provider**, to  
8 terminate water services to any customer premises for nonpayment of a sewer  
9 bill. No such termination of water service may occur until thirty days after the  
10 sewer corporation, municipality or statutory sewer district or sewer district  
11 created and organized pursuant to constitutional authority sends a written notice  
12 to the customer, except that if the water [corporation] **provider** is performing  
13 a combined water and sewer billing service for the sewer corporation,  
14 municipality or sewer district, no additional notice or any additional waiting

15 period shall be required other than the notice and waiting period already used by  
16 the water [corporation] **provider** to disconnect water service for nonpayment of  
17 the water bill. Acting pursuant to a contract, the water [corporation] **provider**  
18 shall discontinue water service until such time as the sewer charges and all  
19 related costs of termination and reestablishment of sewer and water services are  
20 paid by the customer.

21         2. A water [corporation] **provider** acting pursuant to a contract with a  
22 sewer corporation, municipality or sewer district as provided in subsection 1 of  
23 this section shall not be liable for damages related to termination of water  
24 services unless such damage is caused by the negligence of such water  
25 [corporation] **provider**, in which case the water [corporation] **provider** shall be  
26 indemnified by the sewer corporation, municipality or sewer district. Unless  
27 otherwise specified in the contract, all costs related to the termination and  
28 reestablishment of services by the water [corporation] **provider** shall be  
29 reimbursed by the sewer corporation, municipality, sewer district or sewer district  
30 created and organized pursuant to constitutional authority.

644.145. 1. When issuing permits under this chapter that incorporate a  
2 new requirement for discharges from publicly owned combined or separate  
3 sanitary or storm sewer systems or **water or sewer** treatment works, or when  
4 enforcing provisions of this chapter or the Federal Water Pollution Control Act,  
5 33 U.S.C. Section 1251, et seq., pertaining to any portion of a publicly owned  
6 combined or separate sanitary or storm sewer system or **water or sewer**  
7 treatment works, the department of natural resources shall make a finding of  
8 affordability on the costs to be incurred and the impact of any rate changes on  
9 ratepayers upon which to base such permits and decisions, to the extent allowable  
10 under this chapter and the Federal Water Pollution Control Act.

11         2. (1) The department of natural resources shall not be required under  
12 this section to make a finding of affordability when:

13             (a) Issuing collection system extension permits;

14             (b) Issuing National Pollution Discharge Elimination System operating  
15 permit renewals which include no new environmental requirements; or

16             (c) The permit applicant certifies that the applicable requirements are  
17 affordable to implement or otherwise waives the requirement for an affordability  
18 finding; however, at no time shall the department require that any applicant  
19 certify, as a condition to approving any permit, administrative or civil action, that  
20 a requirement, condition, or penalty is affordable.

21           (2) The exceptions provided under paragraph (c) of subdivision (1) of this  
22 subsection do not apply when the community being served has less than three  
23 thousand three hundred residents.

24           3. When used in this chapter and in standards, rules and regulations  
25 promulgated pursuant to this chapter, the following words and phrases mean:

26           (1) "Affordability", with respect to payment of a utility bill, a measure of  
27 whether an individual customer or household with an income equal to **[the] or**  
28 **lower [of] than** the median household income for their community **[or the state**  
29 **of Missouri]** can pay the bill without undue hardship or unreasonable sacrifice  
30 in the essential lifestyle or spending patterns of the individual or household,  
31 taking into consideration the criteria described in subsection 4 of this section;

32           (2) "Financial capability", the financial capability of a community to make  
33 investments necessary to make water quality-related improvements;

34           (3) "Finding of affordability", a department statement as to whether an  
35 individual or a household receiving as income an amount equal to **[the] or** lower  
36 **[of] than** the median household income for the applicant community **[or the state**  
37 **of Missouri]** would be required to make unreasonable sacrifices in **[their] the**  
38 **individual's or the household's** essential lifestyle or spending patterns or  
39 undergo hardships in order to make the projected monthly payments for sewer  
40 services. The department shall make a statement that the proposed changes  
41 meet the definition of affordable, or fail to meet the definition of affordable, or are  
42 implemented as a federal mandate regardless of affordability.

43           4. The department of natural resources shall adopt procedures by which  
44 it will make affordability findings that evaluate the affordability of permit  
45 requirements and enforcement actions described in subsection 1 of this section,  
46 and may begin implementing such procedures prior to promulgating  
47 implementing regulations. The commission shall have the authority to  
48 promulgate rules to implement this section pursuant to chapters 536 and 644,  
49 and shall promulgate such rules as soon as practicable. Affordability findings  
50 shall be based upon reasonably verifiable data and shall include an assessment  
51 of affordability with respect to persons or entities affected. The department shall  
52 offer the permittee an opportunity to review a draft affordability finding, and the  
53 permittee may suggest changes and provide additional supporting information,  
54 subject to subsection 6 of this section. The finding shall be based upon the  
55 following criteria:

56           (1) A community's financial capability and ability to raise or secure

57 necessary funding;

58 (2) Affordability of pollution control options for the individuals or  
59 households at or below the median household income level of the community;

60 (3) An evaluation of the overall costs and environmental benefits of the  
61 control technologies;

62 (4) Inclusion of ongoing costs of operating and maintaining the existing  
63 wastewater collection and treatment system, including payments on outstanding  
64 debts for wastewater collection and treatment systems when calculating projected  
65 rates;

66 (5) An inclusion of ways to reduce economic impacts on distressed  
67 populations in the community, including but not limited to low- and fixed-income  
68 populations. This requirement includes but is not limited to:

69 (a) Allowing adequate time in implementation schedules to mitigate  
70 potential adverse impacts on distressed populations resulting from the costs of  
71 the improvements and taking into consideration local community economic  
72 considerations; and

73 (b) Allowing for reasonable accommodations for regulated entities when  
74 inflexible standards and fines would impose a disproportionate financial hardship  
75 in light of the environmental benefits to be gained;

76 (6) An assessment of other community investments and operating costs  
77 relating to environmental improvements and public health protection;

78 (7) An assessment of factors set forth in the United States Environmental  
79 Protection Agency's guidance, including but not limited to the "Combined Sewer  
80 Overflow Guidance for Financial Capability Assessment and Schedule  
81 Development" that may ease the cost burdens of implementing wet weather  
82 control plans, including but not limited to small system considerations, the  
83 attainability of water quality standards, and the development of wet weather  
84 standards; and

85 (8) An assessment of any other relevant local community economic  
86 condition.

87 5. Prescriptive formulas and measures used in determining financial  
88 capability, affordability, and thresholds for expenditure, such as median  
89 household income, should not be considered to be the only indicator of a  
90 community's ability to implement control technology and shall be viewed in the  
91 context of other economic conditions rather than as a threshold to be achieved.

92 6. Reasonable time spent preparing draft affordability findings, allowing

93 permittees to review draft affordability findings or draft permits, or revising draft  
94 affordability findings, shall be allowed in addition to the department's deadlines  
95 for making permitting decisions pursuant to section 644.051.

96 7. If the department of natural resources fails to make a finding of  
97 affordability where required by this section, then the resulting permit or decision  
98 shall be null, void and unenforceable.

99 8. The department of natural resources' findings under this section may  
100 be appealed to the commission pursuant to subsection 6 of section 644.051.

101 9. The department shall file an annual report by the beginning of the  
102 fiscal year with the governor, the speaker of the house of representatives, the  
103 president pro tempore of the senate, and the chairs of the committees in both  
104 houses having primary jurisdiction over natural resource issues showing at least  
105 the following information on the findings of affordability completed in the  
106 previous calendar year:

107 (1) The total number of findings of affordability issued by the department,  
108 those categorized as affordable, those categorized as not meeting the definition  
109 of affordable, and those implemented as a federal mandate regardless of  
110 affordability;

111 (2) The average increase in sewer rates both in dollars and percentage for  
112 all findings found to be affordable;

113 (3) The average increase in sewer rates as a percentage of median house  
114 income in the communities for those findings determined to be affordable and a  
115 separate calculation of average increases in sewer rates for those found not to  
116 meet the definition of affordable;

117 (4) A list of all the permit holders receiving findings, and for each  
118 permittee the following data taken from the finding of affordability shall be listed:

119 (a) Current and projected monthly residential sewer rates in dollars;

120 (b) Projected monthly residential sewer rates as a percentage of median  
121 [house] **household** income;

122 (c) Percentage of households at or below the state poverty rate.

**Section 1. In any election for the board of directors of a  
2 community improvement district as established in sections 67.1401 to  
3 67.1571, no person shall cast more than one ballot.**

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