

SECOND REGULAR SESSION  
HOUSE COMMITTEE SUBSTITUTE FOR  
**SENATE BILL NO. 479**  
**89TH GENERAL ASSEMBLY**

Reported from the Committee on Local Government & Related Matters, April 9, 1998, with recommendation that the House Committee Substitute for Senate Bill No. 479 Do Pass by Consent.  
ANNE C. WALKER, Chief Clerk  
L2476.03C

**AN ACT**

To repeal section 247.040, RSMo Supp. 1997, relating to public water supply districts, and to enact in lieu thereof two new sections relating to the same subject.

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

Section A. Section 247.040, RSMo Supp. 1997, is repealed and two new sections enacted in lieu thereof, to be known as sections 247.040 and 644.042, to read as follows:

247.040. 1. Proceedings for the formation of a public water supply district shall be substantially as follows: A petition in duplicate describing the proposed boundaries of the 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 situate, 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 the improvement, an approximation of the assessed valuation of taxable property within the district 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 within the proposed district and shall pray for the incorporation of the territory therein described into a public water supply 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 twenty successive issues of a daily newspaper.

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 of 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 to the court may seem meet and proper, and thereupon enter its decree of incorporation, with such boundaries as changed.

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 aforesaid hearing. The decree of incorporation shall also divide the district into five subdistricts and shall fix their boundary lines, all of which subdistricts shall have approximately the same area and shall be numbered. The decree shall further contain an appointment of one voter from each of such subdistricts, to constitute the first board of directors of the district. No two members of such board so appointed or hereafter elected or appointed shall reside in the same subdistrict, except as provided in section 247.060. If no qualified person who lives in the subdistrict is willing to serve on the board, the court may appoint, or the voters may elect, an otherwise qualified person who lives in the district but not in the subdistrict. The court shall designate two of such directors so appointed to serve for a term of two years and one to serve for a term of one year. And the directors 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. The decree shall further designate the name and number of the district by which it shall hereafter 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 10 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, upon canvass and declaration, it is found and determined that the question shall have been assented to by a majority of two-thirds of the voters of the district voting on such 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 above required, the court shall enter a further order declaring such decree of incorporation to be void and of no effect. No appeal shall lie 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 situate and with the clerk of the county commission of the county or counties

in which the district is situate.

8. The boundaries of any district thus formed may be extended or enlarged from time to time upon the filing, with the clerk of the circuit court having jurisdiction, of a petition by either:

(1) The board of directors of the district and five or more voters within the territory proposed to be annexed by the district; or

(2) A majority of the landowners within the territory proposed to be annexed to the district. Thereupon the same proceedings shall be had as are herein provided in the case of the filing of a petition for the organization of the district, except that if the petition is filed by a majority of the landowners within the territory proposed to be annexed, the publication of notice shall not be required, provided notice is posted in three public places within the territory proposed to be annexed 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 annexed, or a majority of the landowners if the total landowners in the area are fewer than ten. And upon the entry of a final order declaring the court's decree of annexation to be final and conclusive, the court shall modify or rearrange the boundary lines of the subdistricts as may be necessary or advisable.

9. The costs incurred in the formation, enlargement or extension of the district shall be taxed to the district, if the district be incorporated, enlarged or extended, otherwise against the petitioners; provided, however, that no costs shall be taxed to the directors of the district; provided further, should any voter who owns real estate that abuts upon a district once formed desire to have such real estate incorporated in the district, the voter shall first petition the board of directors thereof for its approval. If such approval be granted, the clerk 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 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 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.

**10. If petitioners seeking formation of a public water supply district specify in their petition that the district to be organized shall be organized without authority to issue general obligation bonds, then the decrees 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.**

**644.042. The commission may adopt by rule a rebuttable presumption that any stream segment located within one mile upstream of a stream segment that has been determined by the commission to be a losing stream, as defined by the commission by rule, is also a losing stream until determined otherwise by the commission based upon the evidence. Except for the presumption authorized by the preceding sentence, the commission shall not adopt any presumption that any other stream segments are losing streams, and shall make any such determinations based on data applicable to such stream segments.**