

FIRST REGULAR SESSION
[TRULY AGREED TO AND FINALLY PASSED]
HOUSE SUBSTITUTE FOR
HOUSE COMMITTEE SUBSTITUTE FOR
SENATE SUBSTITUTE FOR
SENATE COMMITTEE SUBSTITUTE FOR
SENATE BILLS NOS. 160 & 82
90TH GENERAL ASSEMBLY
1999

L0633.13T

AN ACT

To repeal sections 64.170, 70.240, 72.409, 72.416, 249.645, 321.322, 386.025, 393.295, 393.705, 393.710, 393.715, 393.725, 393.730, 393.760, 393.770, 640.605, 640.615, 644.051 and 650.295, RSMo 1994, and sections 71.012, 71.015, 72.400, 72.401, 72.402, 72.403, 72.405, 72.407, 72.408, 72.410, 72.412, 72.418, 72.422, 247.030, 247.040, 640.100, 640.620 and 644.031, RSMo Supp. 1998, and to enact in lieu thereof sixty-two new sections relating to procedures of certain political subdivisions, with an emergency clause for certain sections.

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

Section A. Sections 64.170, 70.240, 249.645, 321.322, 386.025, 393.295, 393.705, 393.710, 393.715, 393.725, 393.730, 393.760, 393.770, 640.605, 640.615, 644.051 and 650.295, RSMo 1994, and sections 71.012, 71.015, 247.030, 247.040, 640.100, 640.620 and 644.031, RSMo Supp. 1998, are repealed and forty-seven new sections enacted in lieu thereof, to be known as sections 64.170, 70.240, 71.012, 71.015, 72.424, 247.030, 247.040, 249.645, 321.322, 386.025, 393.295, 393.705, 393.710, 393.715, 393.725, 393.730, 393.760, 393.770, 640.100, 640.605, 640.615, 640.620, 644.031, 644.051, 644.566, 644.568, 644.570, 650.295, 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18 and 19, to read as follows:

64.170. **1.** For the purpose of promoting the public safety, health and general welfare, to protect life and property and to prevent the construction of fire hazardous buildings, the county

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

commission in all counties of the first and second [class] **classification**, as provided by law, is for this purpose empowered to adopt by order or ordinance regulations to control the construction, reconstruction, alteration or repair of any building or structure and any electrical wiring or electrical installation therein, and provide for the issuance of building permits and adopt regulations licensing persons, firms or corporations other than federal, state or local governments, public utilities and their contractors engaged in the business of electrical wiring or installations and provide for the inspection thereof and establish a schedule of permit, license and inspection fees and appoint a building commission to prepare the regulations, as herein provided.

2. For the purpose of promoting the public safety, health and general welfare, to protect life and property, the county commission in a county of the first classification having a population of more than one hundred sixty thousand but less than two hundred thousand, as provided by law, is for this purpose empowered to adopt by order or ordinance regulations to control the construction, reconstruction, alteration or repair of any building or structure, and provide for the issuance of building permits and adopt regulations licensing contractors, firms or corporations other than federal, state or local governments, public utilities and their contractors engaged in the business of plumbing or drainlaying and provide for the inspection thereof and establish a schedule of permit, license and inspection fee and appoint a building commission to prepare the regulations, as herein provided.

70.240. The parties to such contract or cooperative action or any of them, **or any joint board or commission formed pursuant to section 70.260 for the purpose of providing water or sewer services**, may acquire, by gift or purchase, or by the power of eminent domain exercised by one or more of the parties thereto in the same manner as now or hereafter provided for corporations created under the law of this state for public use, chapter 523, RSMo, and amendments thereto, **or any joint board or commission formed pursuant to section 70.260 for the purpose of providing water or sewer services**, the lands necessary or useful for the joint use of the parties for the purposes provided in section 70.220 **or section 70.260**, either within or without the corporate or territorial limits of one or more of the contracting parties, and shall have the power to hold or acquire said lands as tenants in common **with the parties to such contract or in the name of any joint board or commission formed pursuant to section 70.260; provided that, in no event shall any joint board or commission formed pursuant to section 70.260 for the purpose of providing water or sewer services exercise the power of eminent domain within the corporate or territorial limits of one of the contracting parties without such party's consent.**

71.012. 1. Notwithstanding the provisions of sections 71.015 and 71.860 to 71.920, the governing body of any city, town[,] or village may annex unincorporated areas which are contiguous and compact to the existing corporate limits of the city, town[,] or village [as provided

in] **pursuant to** this section. The term "contiguous and compact" does not include a situation whereby the unincorporated area proposed to be annexed is contiguous to the annexing city, town or village only by a railroad line, trail, pipeline or other strip of real property less than one-quarter mile in width within the city, town or village so that the boundaries of the city, town or village after annexation would leave unincorporated areas between the annexed area and the prior boundaries of the city, town or village connected only by such railroad line, trail, pipeline or other such strip of real property. The term "contiguous and compact" does not prohibit voluntary annexations [under] **pursuant to** this section merely because such voluntary annexation would create an island of unincorporated area [with] **within** the city, town or village, so long as the owners of the unincorporated island were also given the opportunity to voluntarily annex into the city, town or village. Notwithstanding the provisions of this section, the governing body of any city, town[,] or village in any county of the third classification which borders a county of the fourth classification, a county of the second classification and Mississippi River may annex areas along a road or highway up to two miles from existing boundaries of the city, town or village **or the governing body in any city, town or village in any county of the third classification without a township form of government with a population of at least twenty-four thousand inhabitants but not more than thirty thousand inhabitants and such county contains a state correctional center may voluntarily annex such correctional center pursuant to the provisions of this section if the correctional center is along a road or highway within two miles from the existing boundaries of the city, town or village.**

2. (1) When a verified petition, requesting annexation and signed by the owners of all fee interests of record in all tracts of real property located within the area proposed to be annexed, **or a request for annexation signed under the authority of the governing body of any common interest community and approved by a majority vote of unit owners located within the area proposed to be annexed** is presented to the governing body of the city, town[,] or village, the governing body shall hold a public hearing concerning the matter not less than fourteen nor more than sixty days after the petition is received, and the hearing shall be held not less than seven days after notice of the hearing is published in [newspapers of general circulation qualified to publish legal matters] **a newspaper of general circulation qualified to publish legal matters and located within the boundary of the petitioned city, town or village. If no such newspaper exists within the boundary of such city, town or village, then the notice shall be published in the qualified newspaper nearest the petitioned city, town or village. For the purposes of this subdivision, the term "common interest community" shall mean a condominium as said term is used in chapter 448, RSMo, or a common interest community, a cooperative, or a planned community.**

(a) A "common interest community" shall be defined as real property with respect to which a person, by virtue of such person's ownership of a unit, is obliged to

pay for real property taxes, insurance premiums, maintenance or improvement of other real property described in a declaration. "Ownership of a unit" does not include a leasehold interest of less than twenty years in a unit, including renewal options;

(b) A "cooperative" shall be defined as a common interest community in which the real property is owned by an association, each of whose members is entitled by virtue of such member's ownership interest in the association to exclusive possession of a unit;

(c) A "planned community" a common interest community that is not a condominium or a cooperative. A condominium or cooperative may be part of a planned community.

(2) At the public hearing any interested person, corporation or political subdivision may present evidence regarding the proposed annexation. If, after holding the hearing, the governing body of the city, town[,] or village determines that the annexation is reasonable and necessary to the proper development of the city, town[,] or village, and the city, town[,] or village has the ability to furnish normal municipal services to the area to be annexed within a reasonable time, it may, subject to the provisions of subdivision (3) of this subsection, annex the territory by ordinance without further action.

(3) If a written objection to the proposed annexation is filed with the governing body of the city, town[,] or village not later than fourteen days after the public hearing by at least two percent of the qualified voters of the city, town[,] or village, or two qualified voters of the area sought to be annexed if the same contains two qualified voters, the provisions of sections 71.015 and 71.860 to 71.920, shall be followed.

3. If no objection is filed, the city, town[,] or village shall extend its limits by ordinance to include such territory, specifying with accuracy the new boundary lines to which the city's, town's[,] or village's limits are extended. Upon duly enacting such annexation ordinance, the city, town[,] or village shall cause three certified copies of the same to be filed with the clerk of the county wherein the city, town[,] or village is located, and one certified copy to be filed with the election authority, if different from the clerk of the county which has jurisdiction over the area being annexed, whereupon the annexation shall be complete and final and thereafter all courts of this state shall take judicial notice of the limits of that city, town[,] or village as so extended.

71.015. 1. Should any city, town, or village, not located in any county of the first classification which has adopted a constitutional charter for its own local government, seek to annex an area to which objection is made, the following shall be satisfied:

(1) Before the governing body of any city, town, or village has adopted a resolution to annex any unincorporated area of land, such city, town, or village shall first as a condition precedent determine that the land to be annexed is contiguous to the existing city, town, or village limits and that the length of the contiguous boundary common to the existing city, town, or village

limit and the proposed area to be annexed is at least fifteen percent of the length of the perimeter of the area proposed for annexation.

(2) The governing body of any city, town, or village shall propose an ordinance setting forth the following:

(a) The area to be annexed and affirmatively stating that the boundaries comply with the condition precedent referred to in subdivision (1) above;

(b) That such annexation is reasonable and necessary to the proper development of the city, town, or village;

(c) That the city has developed a "plan of intent" to provide services to the area proposed for annexation;

(d) That a public hearing shall be held prior to the adoption of the ordinance;

(e) When the annexation is proposed to be effective, the effective date being up to thirty-six months from the date of any election held in conjunction thereto.

(3) The city, town, or village shall fix a date for a public hearing on the ordinance and make a good faith effort to notify all fee owners of record within the area proposed to be annexed by certified mail, not less than thirty nor more than sixty days before the hearing, and notify all residents of the area by publication of notice in a newspaper of general circulation qualified to publish legal matters in the county or counties where the proposed area is located, at least once a week for three consecutive weeks prior to the hearing, with at least one such notice being not more than twenty days and not less than ten days before the hearing.

(4) At the hearing referred to in subdivision (3), the city, town, or village shall present the "plan of intent" and evidence in support thereof to include:

(a) A list of major services presently provided by the city, town, or village including, but not limited to, police and fire protection, water and sewer systems, street maintenance, parks and recreation, refuse collection, etc.;

(b) A proposed time schedule whereby the city, town, or village plans to provide such services to the residents of the proposed area to be annexed within three years from the date the annexation is to become effective;

(c) The level at which the city, town, or village assesses property and the rate at which it taxes that property;

(d) How the city, town, or village proposes to zone the area to be annexed;

(e) When the proposed annexation shall become effective.

(5) Following the hearing, **and either before or after the election held in subdivision (6) of this subsection**, should the governing body of the city, town, or village vote favorably by ordinance to annex the area, [then before proceeding as otherwise authorized by law or charter for annexation of unincorporated areas,] **the governing body of the city, town or village shall** file an action in the circuit court of the county in which such unincorporated area is situated,

under the provisions of chapter 527, RSMo, praying for a declaratory judgment authorizing such annexation. The petition in such action shall state facts showing:

(a) The area to be annexed and its conformity with the condition precedent referred to in subdivision (1) of this subsection;

(b) That such annexation is reasonable and necessary to the proper development of the city, town, or village; and

(c) The ability of the city, town, or village to furnish normal municipal services of the city, town, or village to the unincorporated area within a reasonable time not to exceed three years after the annexation is to become effective. Such action shall be a class action against the inhabitants of such unincorporated area under the provisions of section 507.070, RSMo.

(6) Except as provided in subsection 3 of this section, if the court authorizes the city, town, or village to make an annexation, the legislative body of such city, town, or village shall not have the power to extend the limits of the city, town, or village by such annexation until an election is held at which the proposition for annexation is approved by a majority of the total votes cast in the city, town, or village and by a separate majority of the total votes cast in the unincorporated territory sought to be annexed. However, should less than a majority of the total votes cast in the area proposed to be annexed vote in favor of the proposal, but at least a majority of the total votes cast in the city, town, or village vote in favor of the proposal, then the proposal shall again be voted upon in not more than one hundred twenty days by both the registered voters of the city, town, or village and the registered voters of the area proposed to be annexed. If at least two-thirds of the qualified electors voting thereon are in favor of the annexation, then the city, town, or village may proceed to annex the territory. If the proposal fails to receive the necessary majority, no part of the area sought to be annexed may be the subject of another proposal to annex for a period of two years from the date of the election, except that, during the two-year period, the owners of all fee interests of record in the area or any portion of the area may petition the city, town, or village for the annexation of the land owned by them pursuant to the procedures in section 71.012. The elections shall if authorized be held, except as herein otherwise provided, in accordance with the general state law governing special elections, and the entire cost of the election or elections shall be paid by the city, town, or village proposing to annex the territory.

(7) Failure to comply in providing services to the said area or to zone in compliance with the "plan of intent" within three years after the effective date of the annexation, unless compliance is made unreasonable by an act of God, shall give rise to a cause of action for deannexation which may be filed in the circuit court by any resident of the area who was residing in the area at the time the annexation became effective.

(8) No city, town, or village which has filed an action under this section as this section read prior to May 13, 1980, which action is part of an annexation proceeding pending on May 13, 1980, shall be required to comply with subdivision (5) of this subsection in regard to such

annexation proceeding.

(9) If the area proposed for annexation includes a public road or highway but does not include all of the land adjoining such road or highway, then such fee owners of record, of the lands adjoining said highway shall be permitted to intervene in the declaratory judgment action described in subdivision (5) of this subsection.

2. Notwithstanding any provision of subsection 1 of this section, for any annexation by any city with a population of three hundred fifty thousand or more inhabitants which is located in more than one county that becomes effective after August 28, 1994, if such city has not provided water and sewer service to such annexed area within three years of the effective date of the annexation, a cause of action shall lie for deannexation, unless the failure to provide such water and sewer service to the annexed area is made unreasonable by an act of God. The cause of action for deannexation may be filed in the circuit court by any resident of the annexed area who is presently residing in the area at the time of the filing of the suit and was a resident of the annexed area at the time the annexation became effective. If the suit for deannexation is successful, the city shall be liable for all court costs and attorney fees.

3. Notwithstanding the provisions of subdivision (6) of subsection 1 of this section, all cities, towns, and villages located in any county of the first classification with a charter form of government with a population of two hundred thousand or more inhabitants which adjoins a county with a population of nine hundred thousand or more inhabitants shall comply with the provisions of this subsection. If the court authorizes any city, town, or village subject to this subsection to make an annexation, the legislative body of such city, town or village shall not have the power to extend the limits of such city, town, or village by such annexation until an election is held at which the proposition for annexation is approved by a majority of the total votes cast in such city, town, or village and by a separate majority of the total votes cast in the unincorporated territory sought to be annexed; except that:

(1) In the case of a proposed annexation in any area which is contiguous to the existing city, town or village and which is within an area designated as flood plain by the Federal Emergency Management Agency and which is inhabited by no more than thirty registered voters and for which a final declaratory judgment has been granted prior to January 1, 1993, approving such annexation and where notarized affidavits expressing approval of the proposed annexation are obtained from a majority of the registered voters residing in the area to be annexed, the area may be annexed by an ordinance duly enacted by the governing body and no elections shall be required; and

(2) In the case of a proposed annexation of unincorporated territory in which no qualified electors reside, if at least a majority of the qualified electors voting on the proposition are in favor of the annexation, the city, town or village may proceed to annex the territory and no subsequent election shall be required.

If the proposal fails to receive the necessary separate majorities, no part of the area sought to be annexed may be the subject of any other proposal to annex for a period of two years from the date of such election, except that, during the two-year period, the owners of all fee interests of record in the area or any portion of the area may petition the city, town, or village for the annexation of the land owned by them pursuant to the procedures in section 71.012. The election shall, if authorized, be held, except as otherwise provided in this section, in accordance with the general state laws governing special elections, and the entire cost of the election or elections shall be paid by the city, town, or village proposing to annex the territory. Failure of the city, town or village to comply in providing services to the area or to zone in compliance with the "plan of intent" within three years after the effective date of the annexation, unless compliance is made unreasonable by an act of God, shall give rise to a cause of action for deannexation which may be filed in the circuit court by any resident of the area who was residing in such area at the time the annexation became effective or by any nonresident owner of real property in such area.

72.424. Notwithstanding any other provisions of sections 72.400 to 72.422, any owner of a tract of land of thirty acres or less owned by a single owner and that is located within two or more municipalities, one municipality being a city of the fourth classification with a population between four thousand six hundred and five thousand, and the other municipality being of the third classification with a population between sixteen thousand three hundred and seventeen thousand, and both municipalities located within a county of the first classification having a charter form of government and having a minimum population of nine hundred thousand, may elect which municipality to belong to by agreement of that municipality. Such owner's election shall occur within ninety days of the effective date of this section. Such agreement shall consist of the enactment by the governing body of the receiving municipality of an ordinance describing by metes and bounds the property, declaring the property so described to be detached and annexed, and stating the reasons for and the purposes to be accomplished by the detachment and annexation. A copy of said ordinance shall be mailed to the county clerk and to the city clerk and assessor of the contributing municipality before December fifteenth, with such transfer becoming effective the next January first. Such choice of municipalities shall be permanent. Thereafter, all courts of this state shall take notice of the limits of both municipalities as changed by the ordinances. This section shall only apply to boundary changes effected after January 1, 1990, and occurring by the incorporation of a municipality. This section shall expire and be of no force and effect on March 1, 2000.

247.030. **1. Territory that may be included in a district sought to be incorporated or enlarged may be wholly within one or in more than one county, may take in school districts or parts thereof, and cities that do not have a waterworks system or cities whose governing body has by a majority vote requested that the city or part thereof be included within the**

boundaries of a public water supply district. For the purpose of this section, "city" means any city, town or village. The territory, however, shall be contiguous, and proceedings to incorporate shall be in the circuit court of the county in which the largest acreage is located. No two districts shall overlap[; but,].

2. Any two or more [adjacent] **contiguous** districts **or any city and a contiguous district** may, if there are no outstanding general obligation bonds **relating to drinking water supply projects** in either [district] **entity**, by a majority vote of the [board] **governing body** of each [district] **entity**, provide for [acreage] **territory** located in one [district which is not being served by that district] **entity** to be annexed and served by the [district] **entity** contiguous to the annexed territory. Notice of the proposed annexation shall be filed with the circuit court that originally issued the decree of incorporation for [the district which would lose the] **a district which is detaching** territory through the proposed annexation **or with the circuit court that originally issued the decree of incorporation for a district which is including a city or part thereof through the proposed annexation.** The court shall set a date for a hearing on the proposed annexation and shall cause notice to be published in the same manner as for the filing of the original petition for incorporation; except that publication of notice shall not be required if a majority of the landowners in the territory proposed to be annexed consent in writing, and if notice of the hearing is posted in three public places within the territory proposed to be annexed at least seven days before the date of the hearing. If publication of the notice is not required pursuant to this section, the court shall only approve the proposed annexation if there is sworn testimony by at least five landowners in the area of the proposed annexation, or a majority of the landowners, if there are fewer than ten landowners in the area. If the court, after the hearing, finds that the proposed annexation would not be in the public interest, it shall order that the annexation not be allowed. If the court finds the proposed annexation to be in the public interest, it shall approve the annexation and the territory shall be detached from the one [district] **entity** and annexed to the other. After the annexation is approved, the circuit court in **which** each district **involved in the proceedings was incorporated** shall amend the decree of incorporation for each district to reflect the change in the boundaries as a result of the annexation and to redivide each district into five subdistricts, fixing their boundary lines so that each of the five subdistricts have approximately the same area. A certified copy of the amended decree showing the boundary change and the new subdistricts shall be filed in the office of the recorder of deeds and in the office of the county clerk in each county having territory in the district and in the office of the secretary of state of the state of Missouri.

3. **The boundaries of any district 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.

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. 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. The costs incurred in the enlargement or extension of the district shall be taxed to the district, if the district be enlarged or extended, otherwise against the petitioners; provided, however, that no costs shall be taxed to the directors of the district.

4. 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.

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] 9 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.] 9. 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.

249.645. 1. Any public sewer district created under the provisions of sections 249.430 to 249.660 **or established pursuant to article VI, section 30(a) of the Missouri Constitution** may establish, make and collect charges for sewage services, including tap-on fees. The charges may be set as a flat fee or based upon the amount of water supplied to the premises and shall be in addition to those charges which may be levied and collected for maintenance, repair and administration expenses as provided for in section 249.640. Any private water company, public water supply district, or municipality supplying water to the premises located within a sewer district shall, upon reasonable request, make available to such sewer district its records and books so that such sewer district may obtain therefrom such data as may be necessary to calculate the charges for sewer service. Prior to establishing any such sewer charges, public hearings shall be held thereon and at least thirty days' notice shall be given thereof.

2. Any charges made under this section shall be due at such time or times as specified by the county commission, and shall, if not paid by the due date, become delinquent and shall bear interest from the date of delinquency until paid. If such charges become delinquent, they shall

be a lien upon the land charged, upon the county commission filing with the recorder of deeds in the county where the land is situated a notice of delinquency. The county commission shall file with the recorder of deeds a similar notice when the delinquent amounts, plus interest and any recording fees or attorney's fees, have been paid in full. The lien hereby created may be enforced by suit or foreclosure.

3. Should a lien be placed upon a customer's property by a public sewer district for unpaid sewer charges, the lien shall have priority as and be enforced in the same manner as taxes levied for state and county purposes.

4. Should the sewer charges remain unpaid for a period in excess of [one year] **three months**, the district, after notice to the customer by certified mail, shall have the authority at its discretion to disconnect the customer's sewer line from the district's line or request any private water company, public water supply district, or any municipality supplying water to the premises to discontinue service to the customer until such time as the sewer charges and all related costs of this section are paid.

321.322. 1. If any property located within the boundaries of a fire protection district shall be included within a city having a population of at least two thousand five hundred but not more than [forty] **fifty** thousand which is not wholly within the fire protection district and which maintains a city fire department, then upon the date of actual inclusion of the property within the city, as determined by the annexation process, the city shall within sixty days assume by contract with the fire protection district all responsibility for payment in a lump sum or in installments an amount mutually agreed upon by the fire protection district and the city for the city to cover all obligations of the fire protection district to the area included within the city, and thereupon the fire protection district shall convey to the city the title, free and clear of all liens or encumbrances of any kind or nature, any such tangible real and personal property of the fire protection district as may be agreed upon, which is located within the part of the fire protection district located within the corporate limits of the city with full power in the city to use and dispose of such tangible real and personal property as the city deems best in the public interest, and the fire protection district shall no longer levy and collect any tax upon the property included within the corporate limits of the city; except that, if the city and the fire protection district cannot mutually agree to such an arrangement, then the city shall assume responsibility for fire protection in the annexed area on or before January first of the third calendar year following the actual inclusion of the property within the city, as determined by the annexation process, and furthermore the fire protection district shall not levy and collect any tax upon that property included within the corporate limits of the city after the date of inclusion of that property:

(1) On or before January first of the second calendar year occurring after the date on which the property was included within the city, the city shall pay to the fire protection district a fee equal to the amount of revenue which would have been generated during the previous

calendar year by the fire protection district tax on the property in the area annexed which was formerly a part of the fire protection district;

(2) On or before January first of the third calendar year occurring after the date on which the property was included within the city, the city shall pay to the fire protection district a fee equal to four-fifths of the amount of revenue which would have been generated during the previous calendar year by the fire protection district tax on the property in the area annexed which was formerly a part of the fire protection district;

(3) On or before January first of the fourth calendar year occurring after the date on which the property was included within the city, the city shall pay to the fire protection district a fee equal to three-fifths of the amount of revenue which would have been generated during the previous calendar year by the fire protection district tax on the property in the area annexed which was formerly a part of the fire protection district;

(4) On or before January first of the fifth calendar year occurring after the date on which the property was included within the city, the city shall pay to the fire protection district a fee equal to two-fifths of the amount of revenue which would have been generated during the previous calendar year by the fire protection district tax on the property in the area annexed which was formerly a part of the fire protection district; and

(5) On or before January first of the sixth calendar year occurring after the date on which the property was included within the city, the city shall pay to the fire protection district a fee equal to one-fifth of the amount of revenue which would have been generated during the previous calendar year by the fire protection district tax on the property in the area annexed which was formerly a part of the fire protection district.

Nothing contained in this section shall prohibit the ability of a city to negotiate contracts with a fire protection district for mutually agreeable services. This section shall also apply to those fire protection districts and cities which have not reached agreement on overlapping boundaries previous to August 28, 1990. Such fire protection districts and cities shall be treated as though inclusion of the annexed area took place on December thirty-first immediately following August 28, 1990.

2. Any property excluded from a fire protection district by reason of subsection 1 of this section shall be subject to the provisions of section 321.330.

3. The provisions of this section shall not apply in any county of the first class having a charter form of government and having a population of over nine hundred thousand inhabitants.

386.025. Any joint municipal utility commission established by contract for the purpose of owning, operating, controlling or managing all or part of any [water,] gas or electric light works, heating or power plants, or gas or electrical production, distribution or transmission facilities shall be considered a [water corporation,] gas corporation or electrical corporation, as the case may be, as those terms are defined in this chapter.

393.295. All provisions of chapters 386 and 393, RSMo, concerning court proceedings and the jurisdiction, supervision, powers and duties of the public service commission with reference to [water corporations,] gas corporations and electrical corporations, including, but not limiting by enumeration those provisions concerning supervision, investigations, complaints, hearings, reports, approval of certificates of franchises, granting of certificates, approval of issues of stocks, bonds, notes and other evidence of indebtedness, keeping of accounts, fixing of just and reasonable rates, which shall be based on costs associated with any property of such corporations, shall be and are hereby made fully applicable to any joint municipal utility commission which owns, operates, controls or manages all or part of any [water,] gas or electric light works, heating or power plants, electrical energy resources or gas or electrical production, distribution or transmission facilities in this state. Nothing contained herein, however, shall affect the rights, privileges or duties of existing corporations pursuant to this chapter, including the construction of facilities within an existing certificated area.

393.705. As used in sections 393.700 to 393.770 and sections 386.025, RSMo, and 393.295, the following terms shall, unless the context clearly indicates otherwise, have the following meanings:

(1) "Bond" or "bonds", any bonds, interim certificates, notes, debentures or other obligations of a commission issued pursuant to sections 393.700 to 393.770 and sections 386.025, RSMo, and 393.295;

(2) "Commission", any joint municipal utility commission established by a joint contract under sections 393.700 to 393.770 and sections 386.025, RSMo, and 393.295;

(3) "Contracting municipality", each municipality which is a party to a joint contract establishing a commission under sections 393.700 to 393.770 and sections 386.025, RSMo, and 393.295, [or] a water supply district formed under the provisions of chapter 247, RSMo, **or a sewer district formed pursuant to the provisions of chapter 204, RSMo, or chapter 249, RSMo;**

(4) "Joint contract", the contract entered into among or by and between two or more contracting municipalities [or], between municipalities and public water supply districts, **or between municipalities and sewer districts** for the purpose of establishing a commission;

(5) "Person", a natural person, cooperative or private corporation, association, firm, partnership, or business trust of any nature whatsoever, organized and existing under the laws of any state or of the United States and any municipality or other municipal corporation, governmental unit, or public corporation created under the laws of this state or the United States, and any person, board, or other body declared by the laws of any state or the United States to be a department, agency or instrumentality thereof;

(6) "Project", the purchasing, construction, extending or improving of any revenue producing water, **sewage**, gas or electric light works, heating or power plants, including all real

and personal property of any nature whatsoever to be used in connection therewith, together with all parts thereof and appurtenances thereto, used or useful in the generation, production, transmission, distribution excluding retail sales, purchase, sale, exchange, **transport and treatment of sewage** or interchange of water, **sewage**, electric power and energy, or any interest therein or right to capacity thereof and the acquisition of fuel of any kind for any such purposes.

393.710. 1. Municipalities [and], public water supply districts, **and sewer districts** may, by joint contract, establish a separate governmental entity to be known as a joint municipal utility commission, to effect the joint development of water, **sewer**, gas, or electric light works, heating and power plants, or production, distribution and transmission of electric power and energy in whole or in part for the benefit of the inhabitants of such municipalities.

2. Any joint contract establishing a commission under this section shall specify:

(1) The name and purpose of the commission and the functions or services to be provided by the commission;

(2) The establishment and organization of a governing body of a commission which shall be a board of directors in which all powers of the commission are vested. The joint contract may provide for the creation by the board of an executive committee of the board to which the powers and duties may be delegated as the board shall specify;

(3) The number of directors, the manner of their appointment, terms of office and compensation, if any, and the procedure for filling vacancies on the board. Each contracting municipality [and], public water supply district, **and sewer district** shall have the power to appoint one member and an alternate to the board of directors and shall be entitled to remove that member and alternate at will;

(4) The manner of selection of the officers of the commission and their duties;

(5) The voting requirements for action by the board, but, unless specifically provided otherwise, a majority of directors shall constitute a quorum and a majority of the quorum shall be necessary for any action taken by the board;

(6) The duties of the board which shall include the obligation to comply or to cause compliance with this section and the laws of the state and, in addition, with each and every term, provision and covenant in the joint contract creating the commission on its part to be kept or performed;

(7) The manner in which additional municipalities [and], public water supply districts, **and sewer districts** may become parties to the joint contract;

(8) The manner of financing the district and of establishing and maintaining a budget and annual audit for the district;

(9) The ownership interests of the contracting municipality electric cooperative associations, municipally owned or public utilities in a project or the manner of determining such ownership interest, which ownership interest shall be subject to any mortgage of a project

pursuant to section 393.735;

(10) Provisions for the disposition, division or distribution of any property or assets of the commission on dissolution; and

(11) The term of the joint contract, which may be a definite period or until rescinded or terminated, and the method, if any, by which the joint contract may be rescinded or terminated so long as the commission has no bonds outstanding, unless provision for full payment of such bonds, by escrow or otherwise, has been made pursuant to the terms of the bonds or the resolution, trust indenture or security instrument securing the bonds.

3. A commission shall, if the joint contract so provides, be the successor to any nonprofit corporation, agency, or another entity theretofore organized by the contracting municipalities to provide the same function, service or facility, and the commission shall be entitled to all rights and privileges and shall assume all obligations and liabilities of such other entity under existing contracts to which such other entity is a party.

393.715. 1. The general powers of a commission to the extent provided in section 393.710 herein and subject to the provisions of section 393.765 herein shall include the power to:

(1) Plan, develop, acquire, construct, reconstruct, operate, manage, dispose of, participate in, maintain, repair, extend or improve one or more projects, either exclusively or jointly or by participation with electric cooperative associations, municipally owned or public utilities or acquire any interest in or any rights to capacity of a project, within or outside the state, and act as an agent, or designate one or more other persons participating in a project to act as its agent, in connection with the planning, acquisition, construction, operation, maintenance, repair, extension or improvement of such project;

(2) Acquire, sell, distribute and process fuels necessary to the production of electric power and energy; provided, however, the commission shall not have the power or authority to erect, own, use or maintain a transmission line which is parallel or generally parallel to another transmission line in place within a distance of two miles, which serves the same general area sought to be served by the commission unless the public service commission finds that it is not feasible to utilize the transmission line which is in place;

(3) **[To] Acquire by purchase or lease, construct, install, and operate reservoirs, pipelines, wells, check dams, pumping stations, water purification plants, and other facilities for the production, wholesale distribution, and utilization of water and to own and hold such real and personal property as may be necessary to carry out the purposes of its organization; **provided, however, that a commission shall not sell or distribute water, at retail or wholesale, within the certificated area of a water corporation which is subject to the jurisdiction of the public service commission unless the sale or distribution of water is within the boundaries of a public water supply district or municipality which is a contracting municipality in the commission and the commission has obtained the approval of the****

public service commission prior to commencing such sale or distribution of water;

(4) Acquire by purchase or lease, construct, install, and operate lagoons, pipelines, wells, pumping stations, sewage treatment plants and other facilities for the treatment and transportation of sewage and to own and hold such real and personal property as may be necessary to carry out the purposes of its organization;

[(4)] **(5)** Enter into operating, franchises, exchange, interchange, pooling, wheeling, transmission and other similar agreements with any person;

[(5)] **(6)** Make and execute contracts and other instruments necessary or convenient to the exercise of the powers of the commission;

[(6)] **(7)** Employ agents and employees;

[(7)] **(8)** Contract with any person, within or outside the state, for the construction of any project or for any interest therein or any right to capacity thereof, without advertising for bids, preparing final plans and specifications in advance of construction, or securing performance and payment of bonds, except to the extent and on such terms as its board of directors shall determine. Any contract entered into pursuant to this subdivision shall contain a provision that the requirements of sections 290.210 to 290.340, RSMo, shall apply;

[(8)] **(9)** Purchase, sell, exchange, transmit, **treat, dispose** or distribute water, **sewage**, gas, heat or electric power and energy, or any by-product resulting therefrom, within and outside the state, in such amounts as it shall determine to be necessary and appropriate to make the most effective use of its powers and to meet its responsibilities, and to enter into agreements with any person with respect to such purchase, sale, exchange, **treatment, disposal** or transmission, on such terms and for such period of time as its board of directors shall determine. A commission may not sell or distribute water, gas, heat or power and energy, **or sell sewage service** at retail to ultimate customers outside the boundary limits of its contracting municipalities except pursuant to subsection 2 of this section;

[(9)] **(10)** Acquire, own, hold, use, lease, as lessor or lessee, sell or otherwise dispose of, mortgage, pledge, or grant a security interest in any real or personal property, commodity or service or interest therein;

[(10)] **(11)** Exercise the powers of eminent domain for public use as provided in chapter 523, RSMo, except that the power of eminent domain shall not be exercised against any electric cooperative association, municipally owned or public utility;

[(11)] **(12)** Incur debts, liabilities or obligations including the issuance of bonds pursuant to the authority granted in section 27 of article VI of the Missouri Constitution;

[(12)] **(13)** Sue and be sued in its own name;

[(13)] **(14)** Have and use a corporate seal;

[(14)] **(15)** Fix, maintain and revise fees, rates, rents and charges for functions, services, facilities or commodities provided by the commission;

[(15)] (16) Make, and from time to time, amend and repeal, bylaws, rules and regulations not inconsistent with this section to carry into effect the powers and purposes of the commission;

[(16)] (17) Notwithstanding the provisions of any other law, invest any funds held in reserve or sinking funds, or any funds not required for immediate disbursement, including the proceeds from the sale of any bonds, in such obligations, securities and other investments as the commission deems proper;

[(17)] (18) Join organizations, membership in which is deemed by the board of directors to be beneficial to accomplishment of the commission's purposes;

[(18)] (19) Exercise any other powers which are deemed necessary and convenient by the commission to effectuate the purposes of the commission; and

[(19)] (20) Do and perform any acts and things authorized by this section under, through or by means of an agent or by contracts with any person.

2. When a municipality purchases a privately owned water utility and a commission is created pursuant to sections 393.700 to 393.770, the commission may continue to serve those locations previously receiving water from the private utility even though the location receives such service outside the geographical area of the municipalities forming the commission. New water service may be provided in such areas if the site to receive such service is located within one-fourth of a mile from a site serviced by the privately owned water utility.

393.725. 1. Bonds issued pursuant to sections 393.700 to 393.770 by a commission shall be payable, as to the principal and interest, solely from the net revenues derived by the commission from the operation of the commission's project or projects, after providing for the costs of operation and maintenance of the commission's project or projects, or from any other funds made available to the commission from sources other than from proceeds of taxation.

2. Each bond issued pursuant to the provisions of sections 393.700 to 393.770 shall contain a statement that such bond is not an indebtedness of the state, or of any political subdivision thereof, other than the joint municipal utility commission, or of the contracting municipalities [or], the contracting public water supply districts **or the contracting sewer districts**, but shall be special obligations of the commission only and that neither the faith and credit nor the taxing power of the state or of any political subdivision thereof, or of the contracting municipalities [or], contracting public water supply districts **or contracting sewer districts** is pledged to the payment of or the interest on such bonds. The bonds shall not be deemed to be an indebtedness within the meaning of any constitutional or statutory limitation upon the incurring of indebtedness. Neither the members of the board of directors of a commission nor any person executing the bonds shall be liable personally on the bonds by reason of the lawful issuance thereof.

3. A commission, subject to the provisions of section 393.760, may from time to time issue its bonds in such principal amounts as it deems necessary to provide sufficient funds to purchase,

construct, extend or improve a project, including the establishment or increase of reserves, interest accrued during construction of such project and for a period not exceeding one year after the completion of construction of such project, and the payment of all other costs or expenses of the commission incident to and necessary or convenient to carry out its corporate purposes and powers.

4. Bonds of a commission shall be authorized by resolution of the board of directors and may be issued under such resolution or under a trust indenture or other security instrument, as authorized by the resolution, in one or more series and shall bear such date or dates, mature at such time or times, bear interest at such rate or rates, be in such denomination or denominations, be in such form, either coupon, registered or both, carry such conversion or registration privileges, have such rank or priority, be executed in such manner, be payable in such medium of payment, at such place or places within or without the state, and be subject to such terms of redemption, with or without premium, as such resolution, trust indenture or other security instrument may provide, and without limitation by the provisions of any other law limiting amounts, maturities or interest rates.

5. The bonds shall be sold at public sale and in the event of a rejection of all bids by the commission, the bonds may be sold at private sale as the commission may provide and at such price or prices as the commission shall determine or for a joint municipal utility commission within a fifteen county area being served with water from a lake constructed by the U.S. Army Corps of Engineers and located north of the Missouri River, if the commission determines it is in the best interest of the commission, at private sale. The reason or reasons why private sale is in the best interest of the people served shall be set forth in the order or resolution authorizing the private sale. The decision of the commission shall be conclusive.

6. The bonds may be signed by manual or facsimile signatures as determined by resolution of the board. In case any of the officers whose signatures appear on any bonds or coupons shall cease to be such officers before the delivery of such obligations, such signatures shall, nevertheless, be valid and sufficient for all purposes, the same as if the officers had remained in office until such delivery.

7. Pending preparation of definitive bonds, a commission may issue temporary bonds which shall be exchanged for the definitive bonds when such bonds shall have been executed and are available for delivery.

8. All bonds issued under the provisions of sections 393.700 to 393.770 shall be negotiable instruments under the provisions of the uniform commercial code of the state.

393.730. 1. The resolution authorizing any issuance of bonds hereunder shall make provision for the payment of the bonds by fixing such rates, fees and charges for water, **sewer**, gas, heat, electric power and energy and all other services sufficient to pay the interest and principal of the bonds when due, to provide for a sinking fund sufficient to retire the bonds, and

to provide and maintain reasonable reserves. Such rates, fees and charges shall also be sufficient to pay the costs of operation, improvement and maintenance of the water, **sewer**, gas, heat or electric power facilities.

2. The resolution and trust indenture under which any bonds shall be issued shall constitute a contract with the holders of the bonds, and may contain provisions, among others, as to:

(1) The terms and provisions of the bonds;

(2) As provided in section 393.735, the mortgage or pledge of and the grant of a security interest in any real or personal property and all or any part of the revenues from any project or projects or any revenue producing contract or contracts made by the commission with any person to secure the payment of bonds, subject to such agreements with the holders of bonds as may then exist;

(3) The custody, collection, securing, investment and payment of any revenues, assets, money, funds or property with respect to which the commission may have any rights or interest;

(4) The purposes to which the proceeds from the sale of any bonds then or thereafter to be issued may be applied, and the pledge of such proceeds to secure the payment of the bonds;

(5) Limitations on the issuance of any additional bonds, the terms upon which additional bonds may be issued and secured, and the refunding of outstanding bonds;

(6) The rank or priority of any bonds with respect to any lien or security;

(7) The creation of special funds or moneys to be held in trust or otherwise for operating expenses, payment, or redemption of bonds, reserves or other purposes, and the use and disposition of moneys held in such funds;

(8) The procedure by which the terms of any contract with or for the benefit of the holders of bonds may be amended or abrogated, the amount of bonds the holders of which must consent thereto, and the manner in which such consent may be given;

(9) The definition of the acts or omissions to act which shall constitute a default in the duties of the commission to holders of its bonds, and the rights and remedies of such holders in the event of such default including, if the commission shall so determine, the right to accelerate the due date of the bonds or the right to appoint a receiver or receivers of the property or revenues subject to the lien of the resolution and trust indenture;

(10) Any other or additional agreements with or for the benefit of the holders of bonds or any covenants or restrictions necessary or desirable to safeguard the interests of such holders;

(11) The custody of any of its properties or investments, the safekeeping thereof, the insurance to be carried thereon, and the use and disposition of insurance proceeds;

(12) The vesting in a trustee or trustees, within or outside the state, of such properties, rights, powers, and duties in trust as the commission may determine, or limiting or abrogating the rights of the holders of any bonds to appoint a trustee, or limiting the rights, powers, and duties

of such trustee; and

(13) Appointing and providing for the duties and obligations of a paying agent or paying agents or other fiduciaries within or outside the state.

393.760. 1. The commission shall, in accordance with the provisions of chapter 115, RSMo, order an election to be held whereby the qualified electors in each contracting municipality participating in the project shall approve or disapprove the issuance of the bonds as provided for in the resolution of the commission. The commission may not order such an election until it has engaged and received a report from an independent consulting engineer as defined in section 327.181, RSMo, for the purpose of determining the economic and engineering feasibility of any proposed project the costs of which are to be financed through the issuance of bonds. The report of the consulting engineer shall be provided to and approved by the legislative body and executive of each contracting municipality participating in the project and such report shall be open to public inspection and shall be the subject of a public hearing in each municipality participating in the project. Notice of the time and place of each such hearing shall be published in a daily newspaper of general circulation within each municipality. Interested parties may appear and fully participate in such hearings.

2. The commission shall notify the election authority or authorities responsible for conducting elections within each contracting municipality participating in the project in accordance with chapter 115, RSMo.

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

OFFICIAL BALLOT

Should a resolution to approve the issuance of revenue bonds by the joint municipal (water) **(sewer)** (power) (gas) commission in an amount not to exceed \$..... for the purpose of be approved?

G Yes

G No

If you are in favor of the resolution, place an "X" in the box opposite "Yes". If you are opposed to the question, place an "X" in the box opposite "No".

4. If the resolution to issue the bonds is approved by at least a majority of the qualified electors voting thereon in each of the contracting municipalities participating in the project, the commission shall declare the result of the election and cause the bonds to be issued.

5. The municipalities participating in the project shall bear all expenses associated with the elections in such contracting municipalities.

393.770. 1. The contracting municipalities may provide in the joint contract for payment to the commission of funds for commodities to be procured and services to be rendered by the commission. The contracting municipalities and other persons may enter into purchase agreements with the commission for the purchase, sale, exchange or transmission of water, **sewage service**, gas, heat or any right to capacity or interest in such electric power and energy

whereby the purchaser is obligated to make payments in amounts which shall be sufficient to enable the [company] **commission** to meet its expenses, interest and principal payments, whether at maturity or upon sinking fund redemption, for its bonds, reasonable reserves for debt service, operation and maintenance and renewals and replacements and the requirements of any rate covenant with respect to debt service coverage contained in any resolution, trust indenture or other security instrument. Purchase agreements may contain such other terms and conditions as the commission and the purchasers may determine, including provisions whereby the purchaser is obligated to pay for water, **sewage service**, gas, heat or power irrespective of whether water, **sewage service**, gas, heat or energy is produced or delivered to the purchaser or whether any project contemplated by any such agreement is completed, operable or operating, and notwithstanding suspension, interruption, interference, reduction or curtailment of the output of such project. Such agreements may be for a term covering the life of a project or for any other term, or for an indefinite period. The joint contract or a purchase agreement may provide that if one or more of the purchasers default in the payment of its obligations under any such purchase agreement, the remaining purchasers which also have such agreements shall be required to accept and pay for and shall be entitled proportionately to use or otherwise dispose of the water, **sewage service**, gas, heat or energy to be purchased by the defaulting purchaser.

2. The obligations of a municipality under a purchase agreement with a commission or arising out of the default by any other purchaser with respect to such an agreement shall not be construed to constitute debt of the municipality. To the extent provided in the purchase agreement, such obligations shall constitute special obligations of the municipality, payable solely from the revenues and other moneys derived by the municipality from its municipal utility and shall be treated as expenses of operating a municipal utility.

640.100. 1. The safe drinking water commission created in section 640.105 shall promulgate rules necessary for the implementation, administration and enforcement of sections 640.100 to 640.140 and the federal Safe Drinking Water Act as amended.

2. No standard, rule or regulation or any amendment or repeal thereof shall be adopted except after a public hearing to be held by the commission after at least thirty days' prior notice in the manner prescribed by the rulemaking provisions of chapter 536, RSMo, and an opportunity given to the public to be heard; the commission may solicit the views, in writing, of persons who may be affected by, knowledgeable about, or interested in proposed rules and regulations, or standards. Any person heard or registered at the hearing, or making written request for notice, shall be given written notice of the action of the commission with respect to the subject thereof. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is promulgated to administer and enforce sections 640.100 to 640.140 shall become effective only if the agency has fully complied with all of the requirements of chapter 536, RSMo, including but not limited to, section 536.028, RSMo, if applicable, after June 9, 1998. All rulemaking authority

delegated prior to June 9, 1998, is of no force and effect and repealed as of June 9, 1998, however, nothing in this section shall be interpreted to repeal or affect the validity of any rule adopted or promulgated prior to June 9, 1998. If the provisions of section 536.028, RSMo, apply, the provisions of this section are nonseverable and if any of the powers vested with the general assembly pursuant to section 536.028, RSMo, to review, to delay the effective date, or to disapprove and annul a rule or portion of a rule are held unconstitutional or invalid, the purported grant of rulemaking authority and any rule so proposed and contained in the order of rulemaking shall be invalid and void, except that nothing in this [act] **chapter or chapter 644, RSMo**, shall affect the validity of any rule adopted and promulgated prior to June 9, 1998.

3. The commission shall promulgate rules and regulations for the certification of public water system operators, backflow prevention assembly testers and laboratories conducting tests pursuant to sections 640.100 to 640.140. Any person seeking to be a certified backflow prevention assembly tester shall satisfactorily complete standard, nationally recognized written and performance examinations designed to ensure that the person is competent to determine if the assembly is functioning within its design specifications. Any such state certification shall satisfy any need for local certification **as a backflow prevention assembly tester. However, political subdivisions may set additional testing standards for individuals who are seeking to be certified as backflow prevention assembly testers. Notwithstanding any other provision of law to the contrary, agencies of the state or its political subdivisions shall only require carbonated beverage dispensers to conform to the backflow protection requirements established in the National Sanitation Foundation standard eighteen, and the dispensers shall be so listed by an independent testing laboratory.** The commission shall promulgate rules and regulations for collection of samples and analysis of water furnished by municipalities, corporations, companies, state establishments, federal establishments or individuals to the public. The department of natural resources or the department of health shall, at the request of any supplier, make any analyses or tests required pursuant to the terms of section 192.320, RSMo, and sections 640.100 to 640.140. The department shall collect fees to cover the reasonable cost of laboratory services, both within the department of natural resources and the department of health, laboratory certification and program administration as required by sections 640.100 to 640.140. The laboratory services and program administration fees pursuant to this subsection shall not exceed two hundred dollars for a supplier supplying less than four thousand one hundred service connections, three hundred dollars for supplying less than seven thousand six hundred service connections, five hundred dollars for supplying seven thousand six hundred or more service connections, and five hundred dollars for testing surface water. Such fees shall be deposited in the safe drinking water fund as specified in section 640.110. The analysis of all drinking water required by section 192.320, RSMo, and sections 640.100 to 640.140 shall be made by the department of natural resources laboratories,

department of health laboratories or laboratories certified by the department of natural resources.

4. The department of natural resources shall establish and maintain an inventory of public water supplies and conduct sanitary surveys of public water systems. Such records shall be available for public inspection during regular business hours.

5. (1) For the purpose of complying with federal requirements for maintaining the primacy of state enforcement of the federal Safe Drinking Water Act, the department is hereby directed to request appropriations from the general revenue fund and all other appropriate sources to fund the activities of the public drinking water program and in addition to the fees authorized pursuant to subsection 3 of this section, an annual fee for each customer service connection with a public water system is hereby authorized to be imposed upon all customers of public water systems in this state. The fees collected shall not exceed the amounts specified in this subsection and the commission may set the fees, by rule, in a lower amount by proportionally reducing all fees charged pursuant to this subsection from the specified maximum amounts. Each customer of a public water system shall pay an annual fee for each customer service connection.

(2) The annual fee per customer service connection for unmetered customers and customers with meters not greater than one inch in size, shall be based upon the number of service connections in the water system serving that customer, and shall not exceed:

1 to 1,000 connections	\$2.00
1,001 to 4,000 connections	1.84
4,001 to 7,000 connections	1.67
7,001 to 10,000 connections	1.50
10,001 to 20,000 connections	1.34
20,001 to 35,000 connections	1.17
35,001 to 50,000 connections	1.00
50,001 to 100,000 connections	.84
More than 100,000 connections	.66.

(3) The annual user fee for customers having meters greater than one inch but less than or equal to two inches in size shall not exceed five dollars; for customers with meters greater than two inches but less than or equal to four inches in size shall not exceed twenty-five dollars; and for customers with meters greater than four inches in size shall not exceed fifty dollars.

(4) Customers served by multiple connections shall pay an annual user fee based on the above rates for each connection, except that no single facility served by multiple connections shall pay a total of more than five hundred dollars per year.

6. Fees imposed pursuant to subsection 5 of this section shall become effective on August 28, 1992, and shall be collected by the public water system serving the customer. The commission shall promulgate rules and regulations on the procedures for billing, collection and delinquent payment. Fees collected by a public water system pursuant to subsection 5 of this section are state

fees. The annual fee shall be enumerated separately from all other charges, and shall be collected in monthly, quarterly or annual increments. Such fees shall be transferred to the director of the department of revenue at frequencies not less than quarterly. Two percent of the revenue arising from the fees shall be retained by the public water system for the purpose of reimbursing its expenses for billing and collection of such fees.

7. Imposition and collection of the fees authorized in subsection 5 of this section shall be suspended on the first day of a calendar quarter if, during the preceding calendar quarter, the federally delegated authority granted to the safe drinking water program within the department of natural resources to administer the Safe Drinking Water Act, 42 U.S.C. 300g-2, is withdrawn. The fee shall not be reinstated until the first day of the calendar quarter following the quarter during which such delegated authority is reinstated.

8. Fees imposed pursuant to subsection 5 of this section shall expire on September 1, 2002.

640.605. The grants may be made to districts or communities to assist in financing, including engineering and legal service costs, specific projects for construction, original or enlargement of supply, **source water protection** treatment, purification, storage and distribution facilities for water systems and collection, treatment, forced mains, lift stations and disposal facilities for sewage systems, or any other item necessary for the physical operation of the water or sewage systems where grant funds are necessary to reduce the project cost per user to a reasonable level. The grants may be made to supplement funds from loan proceeds or other private or public sources when such grants are not available through any other state or federal agency.

640.615. 1. The applicant must first apply with the agency or other financial source which is to furnish the primary financial assistance, and after the amount of that assistance has been determined, an application for a grant hereunder may be made to and processed by the department of natural resources. The department of natural resources shall make the necessary rules and regulations for the consideration and processing of all grant requests, which shall generally conform to those used by federal grant and loan agencies, which rules shall be filed in the office of the secretary of state. The rules shall contain, but shall not be limited to, the following criteria:

- (1) Preliminary engineer cost study;
- (2) Bonded indebtedness of the district or community;
- (3) The financial condition of the district or community;
- (4) The cost per connection;
- (5) The economic level in the district or community;
- (6) The ratio of contracted users to potential users, which shall not be less than seventy-five percent;
- (7) The number of acres being protected for any source water protection project.**

2. No grant shall be finally approved until the applicant furnishes evidence of a commitment from the primary financial source.

640.620. In any case, the grant shall not be in excess of one thousand four hundred dollars per connection, **or, in the case of a source water protection project, for more than twenty percent of the cost per acre for conservation reserve** and, except as otherwise provided in this section, no district or system may receive more than one grant for any purpose in any two-year period. Grantees who received or who are receiving funds under the 1993-1994 special allocation for flood-impacted communities are not subject to the prohibition against receiving more than one grant during any two-year period for a period ending two years after the final grant allocation for flood-impacted communities is received by that grantee.

644.031. 1. The general assembly may appropriate funds to the clean water commission of the department of natural resources for the control of storm water in any county **of the first classification** or in any city **with a population of more than four hundred thousand inhabitants, or in any city not within a county**. The commission shall administer and expend such funds in accordance with the terms of the appropriation.

2. The commission shall administer and expend such funds in the following manner:

(1) The funds shall be distributed based on the percentage of the population of a county or city **that is eligible pursuant to this section** in relation to the combined population of all counties and cities **that are eligible for such funds pursuant to this section**, according to the most recent federal decennial census. Participating counties or cities must have a comprehensive storm water control plan or study approved by the Missouri clean water commission, **or a comparable study acceptable to the U.S. Army Corps of Engineers and approved by the commission**, prior to being eligible [or have matching moneys for such a study or plan, as required by subsection 3 of this section], however, a comprehensive storm water control plan or study prepared by any city or other political subdivision within a participating county may be accepted by the clean water commission in lieu of a county plan or study;

(2) The commission shall obligate all funds appropriated under this section to qualifying political subdivisions for storm water projects or for a comprehensive storm water control plan or study approved by the Missouri clean water commission prior to the end of the fiscal year of the appropriation or reappropriation. The political subdivisions receiving assistance under this section shall award all significant construction contracts for their projects within eighteen months of the appropriation or reappropriation[. Where the moneys are to be used for a study or plan, all such moneys for the study shall be expended within two years of the appropriation];

(3) Any funds remaining unobligated at the end of the fiscal year together with any funds obligated for construction contracts which were not awarded within eighteen months of the appropriation or reappropriation [and funds which were to be used to fund a study or plan that were not expended within two years of the appropriation] shall be returned to the commission and

redistributed in accordance with this section.

3. Funds authorized by the general assembly for storm water control to an eligible county or city may be expended for no more than [eighty percent] **one-third** of the costs of any one storm water project.

4. Notwithstanding the other provisions of this section, in those cities or counties served by a sewer district established pursuant to article VI, section 30(a) of the Constitution of Missouri, any grants or loans awarded shall be disbursed directly to such district.

644.051. 1. It is unlawful for any person

(1) To cause pollution of any waters of the state or to place or cause or permit to be placed any water contaminant in a location where it is reasonably certain to cause pollution of any waters of the state;

(2) To discharge any water contaminants into any waters of the state which reduce the quality of such waters below the water quality standards established by the commission if not subject to effluent regulations adopted pursuant to sections 644.006 to 644.141;

(3) To violate any pretreatment and toxic material control regulations, or to discharge any water contaminants into any waters of the state which exceed effluent regulations or permit provisions as established by the commission or required by any federal water pollution control act;

(4) To discharge any radiological, chemical, or biological warfare agent or high-level radioactive waste into the waters of the state.

2. It shall be unlawful for any person to build, erect, alter, replace, operate, use or maintain any water contaminant or point source in this state that is subject to standards, rules or regulations promulgated pursuant to the provisions of sections 644.006 to 644.141 unless [he] **such person** holds a permit from the commission, subject to such exceptions as the commission may prescribe by rule or regulation. However, no permit shall be required of any person for any emission into publicly owned treatment facilities or into publicly owned sewer systems tributary to publicly owned treatment works.

3. Every proposed water contaminant or point source which, when constructed or installed or established, will be subject to any federal water pollution control act or sections 644.006 to 644.141 or regulations promulgated pursuant to the provisions of such act shall make application to the executive secretary for a permit at least thirty days prior to the initiation of construction or installation or establishment. Every water contaminant or point source in existence when regulations or sections 644.006 to 644.141 become effective shall make application to the executive secretary for a permit within sixty days after the regulations or sections 644.006 to 644.141 become effective, whichever shall be earlier. The executive secretary shall promptly investigate each application, which investigation shall include such hearings and notice, and consideration of such comments and recommendations as required by sections 644.006 to 644.141 and any federal water

pollution control act. If [he] **the executive secretary** determines that the source meets or will meet the requirements of sections 644.006 to 644.141 and the regulations promulgated pursuant thereto, [he] **the executive secretary** shall issue a permit with such conditions as he **or she** deems necessary to ensure that the source will meet the requirements of sections 644.006 to 644.141 and any federal water pollution control act as it applies to sources in this state. If the executive secretary determines that the source does not meet or will not meet the requirements of either act and the regulations pursuant thereto, [he] **the executive secretary** shall deny the permit **[under] pursuant to** the applicable act and issue any notices required by sections 644.006 to 644.141 and any federal water pollution control act.

4. Before issuing a permit to build or enlarge a water contaminant or point source or reissuing any permit, the executive secretary shall issue such notices, conduct such hearings, and consider such factors, comments and recommendations as required by sections 644.006 to 644.141 or any federal water pollution control act. **[He] The executive secretary** shall determine if any state or any provisions of any federal water pollution control act the state is required to enforce, any state or federal effluent limitations or regulations, water quality related effluent limitations, national standards of performance, toxic and pretreatment standards, or water quality standards which apply to the source, or any such standards in the vicinity of the source, are being exceeded, and shall determine the impact on such water quality standards from the source. The executive secretary, in order to effectuate the purposes of sections 644.006 to 644.141, shall deny a permit if the source will violate any such acts, regulations, limitations or standards or will appreciably affect the water quality standards or the water quality standards are being substantially exceeded, unless the permit is issued with such conditions as to make the source comply with such requirements within an acceptable time schedule.

5. The executive secretary shall grant or deny the permit within sixty days after all requirements of the Federal Water Pollution Control Act concerning issuance of permits have been satisfied unless the application does not require any permit **[under] pursuant to** any federal water pollution control act. The executive secretary or the commission may require the applicant to provide and maintain such facilities or to conduct such tests and monitor effluents as necessary to determine the nature, extent, quantity or degree of water contaminant discharged or released from the source, establish and maintain records and make reports regarding such determination.

6. The executive secretary shall promptly notify the applicant **or other affected party** in writing of his **or her** action and if the permit is denied state the reasons therefor. The applicant may appeal to the commission from the denial of a permit or from any condition in any permit by filing notice of appeal with the commission within thirty days of the notice of denial or issuance of the permit. The commission shall set the matter for hearing not less than thirty days after the notice of appeal is filed. In no event shall a permit constitute permission to violate the law or any standard, rule or regulation promulgated pursuant thereto.

7. In any hearing held pursuant to this section the burden of proof is on the applicant for a permit. Any decision of the commission made pursuant to a hearing held [under the provisions of] **pursuant to** this section is subject to judicial review as provided in section 644.071.

8. In any event, no permit hereunder shall be issued if properly objected to by the federal government or any agency authorized to object [under] **pursuant to** any federal water pollution control act unless the application does not require any permit [under] **pursuant to** any federal water pollution control act.

9. No manufacturing or processing plant or operating location shall be required to pay more than one operating fee. Operating permits shall be issued for a period not to exceed five years after date of issuance, except that general permits shall be issued for a five-year period, and also except that neither a construction nor an annual permit shall be required for a single residence's waste treatment facilities. All moneys remaining in the Missouri clean water fund on August 28, 1990, shall be transferred to the water pollution permit fee subaccount of the natural resources protection fund. Applications for renewal of an operating permit shall be filed at least one hundred eighty days prior to the expiration of the existing permit.

10. Every permit issued to municipal or any publicly owned treatment works or facility shall require the permittee to provide the clean water commission with adequate notice of any substantial new introductions of water contaminants or pollutants into such works or facility from any source for which such notice is required by sections 644.006 to 644.141 or any federal water pollution control act. Such permit shall also require the permittee to notify the clean water commission of any substantial change in volume or character of water contaminants or pollutants being introduced into its treatment works or facility by a source which was introducing water contaminants or pollutants into its works at the time of issuance of the permit. Notice must describe the quality and quantity of effluent being introduced or to be introduced into such works or facility by a source which was introducing water contaminants or pollutants into its works at the time of issuance of the permit. Notice must describe the quality and quantity of effluent being introduced or to be introduced into such works or facility and the anticipated impact of such introduction on the quality or quantity of effluent to be released from such works or facility into waters of the state.

11. The executive secretary or the commission may require the filing or posting of a bond as a condition for the issuance of permits for construction of temporary or future water treatment facilities in an amount determined by the commission to be sufficient to ensure compliance with all provisions of sections 644.006 to 644.141, and any rules or regulations of the commission and any condition as to such construction in the permit. The bond shall be signed by the applicant as principal, and by a corporate surety licensed to do business in the state of Missouri and approved by the commission. The bond shall remain in effect until the terms and conditions of the permit are met and the provisions of sections 644.006 to 644.141 and rules and regulations promulgated

pursuant thereto are complied with.

644.566. 1. In addition to those sums authorized prior to the effective date of this section, the board of fund commissioners of the state of Missouri, as authorized by section 37(e) of article III of the Constitution of the state of Missouri, may borrow on the credit of this state the sum of two and one-half million dollars in the manner and for the purpose of financing and constructing improvements as set out in chapter 640, RSMo, and this chapter.

2. In addition to those sums authorized prior to the effective date of this section, the board of fund commissioners of the state of Missouri, as authorized by section 37(e) of article III of the Constitution of the state of Missouri, may borrow on the credit of this state the sum of fifteen million dollars in the manner and for the purposes set out in chapter 640, RSMo, and this chapter.

644.568. In addition to those sums authorized prior to the effective date of this section, the board of fund commissioners of the state of Missouri, as authorized by section 37(g) of article III of the Constitution of the state of Missouri, may borrow on the credit of this state the sum of ten million dollars for the purposes of financing and constructing improvements as set out in this chapter. The department shall allocate these funds to counties, municipalities, sewer districts, water districts, or any combination of the same to provide grants and loans for rural water and sewer projects.

644.570. 1. The board of fund commissioners of the state of Missouri, as authorized by section 37(h) of article III of the Constitution of the state of Missouri, may borrow on the credit of this state the sum of twenty million dollars for the purposes of financing and constructing stormwater control plans, studies and projects as set out in this chapter. The department shall allocate these funds through grants and loans to municipalities, sewer districts, sewer districts established pursuant to article VI, section 30(a) of the Missouri Constitution, water districts, or any combination of the same located in a county of the first classification or in any city not within a county or by any county of the first classification.

2. Of the funds allocated in subsection 1 of this section, fifty percent shall be allocated to grants and fifty percent shall be allocated to loans. Grant amounts so awarded shall be fifty percent of the cost of the plan, study or project.

3. Grants and loans awarded pursuant to this section shall be disbursed to eligible recipients in counties of the first classification and in a city not within a county in an amount equal to the percentage ratio that the recipient's population bears to the total population of all counties of the first classification and cities not within a county as determined by the last decennial census.

4. Grants and loans awarded pursuant to this section shall be disbursed directly

to eligible recipients in any city with a population of at least twenty-five thousand inhabitants located in a county of the first classification in an amount equal to the percentage ratio that the recipient's population bears to the total population of the county.

5. Other provisions of this section notwithstanding, in those cities or counties served by a sewer district established pursuant to article VI, section 30(a) of the Constitution of the state of Missouri, any grants or loans awarded shall be disbursed directly to such district.

650.295. Any person certified by the department of natural resources as a certified backflow prevention assembly tester shall be eligible to be registered or licensed by any county, city, town, village or other political subdivision of this state to test and repair a backflow prevention assembly pursuant to the practice of his ~~or her~~ trade within that political subdivision as long as he ~~or she~~ maintains state certification **as a backflow prevention assembly tester. However, political subdivisions may set additional testing standards for individuals who are seeking to be certified as backflow prevention assembly testers. Notwithstanding any other provision of law to the contrary, agencies of the state or its political subdivisions shall only require carbonated beverage dispensers to conform to the backflow protection requirements established in the National Sanitation Foundation standard eighteen, and the dispensers shall be so listed by an independent testing laboratory.**

Section 1. 1. Nonprofit, membership corporations may be organized pursuant to sections 1 to 18 of this act only for the purpose of supplying water for distribution, wholesale and treatment services within the state of Missouri. Corporations which become subject to sections 1 to 18 of this act are referred to in sections 1 to 18 of this act as "nonprofit water companies". Five or more persons may organize a nonprofit water company pursuant to sections 1 to 18 of this act.

2. The articles of incorporation of a nonprofit water company shall recite in the caption that they are executed pursuant to sections 1 to 18 of this act, shall be signed and acknowledged in duplicate by at least five of the incorporators and shall state:

- (1) The name of the company;**
- (2) The address of its principal office;**
- (3) The names and addresses of the incorporators;**
- (4) The number of years the company is to continue, which may be any number including perpetuity;**
- (5) The legal description of the territory in which the company intends to operate;**
- (6) The names and addresses of the persons who shall constitute its first board of directors;**

(7) Whether the company chooses to operate pursuant to chapter 347, RSMo, or chapter 355, RSMo;

(8) The method chosen for distributing the assets of the company upon dissolution; and

(9) Any provisions not inconsistent with sections 1 to 18 of this act deemed necessary or advisable for the conduct of its business and affairs. Such articles of incorporation shall be submitted to the secretary of state for filing.

Section 2. Any corporation organized pursuant to the laws of this state for the purpose, among others, of water treatment may be converted into a nonprofit water company and become subject to sections 1 to 18 of this act with the same effect as if originally organized pursuant to sections 1 to 18 of this act by complying with the following requirements:

(1) The proposition for the conversion of such corporation into a nonprofit water company and proposed articles of conversion to give effect to such conversion shall be first approved by the board of trustees or the board of directors, as the case may be, of such corporation. The proposed articles of conversion shall recite in the caption that they are executed pursuant to sections 1 to 18 of this act and shall state:

(a) The name of the corporation prior to its conversion into a nonprofit water company;

(b) The address of the principal office of such corporation;

(c) The date of the filing of the articles of incorporation of such corporation in the office of the secretary of state;

(d) The statute or statutes pursuant to which such corporation was organized;

(e) The name assumed by such corporation;

(f) A statement that such corporation elects to become a nonprofit, membership corporation subject to sections 1 to 18 of this act;

(g) The manner and basis of converting either memberships in or shares of stock of such corporation into memberships in the converted corporation after completion of the conversion;

(h) The legal description of the territory in which the company intends to operate;

(i) The method chosen for distributing the assets of the company upon dissolution; and

(j) Any provisions not inconsistent with sections 1 to 18 of this act deemed necessary or advisable for the conduct of the business and affairs of such corporation;

(2) The proposition for the conversion of such corporation into a nonprofit water company and the proposed articles of conversion approved by the board of trustees or board of directors, as the case may be, of such corporation shall then be

submitted to a vote of the members or stockholders, as the case may be, of such corporation at any duly held annual or special meeting of such corporation, the notice of which shall set forth full particulars concerning the proposed conversion. The proposition for the conversion of such corporation into a nonprofit water company and the proposed articles of conversion, with such amendments to such articles as the members or stockholders of such corporation shall choose to make, shall be deemed to be approved upon the affirmative vote of not less than a majority of the members of such corporation, or, if such corporation is a stock corporation, upon the affirmative vote of the holders of not less than a majority of the capital stock of such corporation;

(3) Upon such approval by the members or stockholders of such corporation, articles of conversion in the form approved by such members or stockholders shall be executed and acknowledged in duplicate on behalf of such corporation by its president or vice president and its corporate seal shall be affixed thereto and attested by its secretary. The president or vice president executing such articles of conversion on behalf of such corporation shall also make and annex to each copy of such articles an affidavit stating that the provisions of sections 1 to 18 of this act with respect to the approval of its trustees or directors and its members or stockholders, of the proposition for the conversion of such corporation into a nonprofit water company and such articles of conversion were duly complied with. Such articles of conversion and affidavit shall be submitted to the secretary of state for filing pursuant to sections 1 to 18 of this act. The term "articles of incorporation" as used in sections 1 to 18 of this act shall be deemed to include the articles of conversion of a converted corporation.

Section 3. A nonprofit water company shall have power:

- (1) To sue and be sued, in its corporate name;
- (2) To have succession by its corporate name for the period stated in its articles of incorporation or, if no period is stated in its articles of incorporation, to have such succession perpetually;
- (3) To adopt a corporate seal and alter the same at pleasure;
- (4) To provide water treatment services to its members, to governmental agencies and political subdivisions;
- (5) To make loans to persons to whom water treatment is or will be supplied by the company for the purpose of, and otherwise to assist such persons in, installing therein plumbing fixtures, appliances, apparatus and equipment of any and all kinds and character, and in connection with such installation to purchase, acquire, lease, sell, distribute, install and repair such plumbing fixtures, appliances, apparatus and equipment, and to accept or otherwise acquire, and to sell, assign, transfer, endorse, pledge, hypothecate and otherwise dispose of notes, bonds and other evidences of indebtedness and any and all types of security for such indebtedness;

(6) To make loans to persons to whom water treatment is or will be supplied by the company for the purpose of, and otherwise to assist such persons in, constructing, maintaining and operating commercial or industrial plants or facilities;

(7) To construct, purchase, take, receive, lease as lessee or otherwise acquire, and to own, hold, use, equip, maintain and operate, and to sell, assign, transfer, convey, exchange, lease as lessor, mortgage, pledge or otherwise dispose of or encumber, water provision or collection or treatment systems, plants, lands, buildings, structures, dams and equipment, and any and all kinds and classes of real or personal property whatsoever, which shall be deemed necessary, convenient or appropriate to accomplish the purpose for which the company is organized;

(8) To purchase or otherwise acquire, and to own, hold, use and exercise and to sell, assign, transfer, convey, mortgage, pledge, hypothecate or otherwise dispose of or encumber, franchises, rights, privileges, licenses, rights-of-way and easements;

(9) To borrow money and otherwise contract indebtedness, and to issue notes, bonds and other evidences of indebtedness, and to secure the payment of such indebtedness by mortgage, pledge, deed of trust, or any other encumbrance upon any or all of its then-owned or after-acquired real or personal property, assets, franchises, revenues or income;

(10) To construct, maintain and operate water distribution and collection and treatment plants and lines along, upon, under and across all public thoroughfares, including without limitation, all roads, highways, streets, alleys, bridges and causeways, and upon, under and across all publicly owned lands, provided that such nonprofit water company complies with any public entity's authority to control the use of its thoroughfares for the purposes described in this subsection;

(11) To exercise the power of eminent domain in the manner provided by the laws of this state for the exercise of that power by corporations constructing or operating electric transmission and distribution lines or systems;

(12) To conduct its business and exercise any or all of its powers within or without this state;

(13) To adopt, amend and repeal bylaws; and

(14) To do and perform any and all other acts and things, and to have and exercise any and all other powers which may be necessary, convenient or appropriate to accomplish the purpose for which the company is organized.

Section 4. A company may amend its articles of incorporation by complying with the following requirements:

(1) The proposed amendment shall be first approved by the board of directors and shall then be submitted to a vote of the members at any annual or special meeting of such members, the notice of which shall set forth the proposed amendment. The

proposed amendment, with such changes as the members shall choose to make to such amendment, shall be approved on the affirmative vote of not less than two-thirds of those members voting on such amendment at such meeting; and

(2) (a) Upon such approval by the members, articles of amendment shall be executed and acknowledged in duplicate on behalf of the company by its president or vice president and its corporate seal shall be affixed thereto and attested by its secretary. The articles of amendment shall recite in the caption that they are executed pursuant to sections 1 to 18 of this act and shall state:

- a. The name of the company;
- b. The address of its principal office;
- c. The date of the filing of its articles of incorporation in the office of the secretary of state; and
- d. The amendment to its articles of incorporation.

(b) The president or vice president executing such articles of amendment shall also make and annex to each copy of such articles an affidavit stating that the provisions of sections 1 to 18 of this act were duly complied with.

(c) Such articles of amendment and affidavit shall be submitted to the secretary of state for filing.

Section 5. A company may, upon authorization of a majority of the members at any regular or special meeting, change the location of its principal office by filing a certificate of change of principal office, executed and acknowledged in duplicate by its president or vice president under its seal attested by its secretary, in the office of the secretary of state. Such company shall also, within thirty days after the filing of such certificate of change of principal office, file certified copies of its articles of incorporation and all amendments to such articles, if the same are not already on file.

Section 6. 1. Articles of incorporation, amendment, consolidation, merger, conversion, or dissolution, as the case may be, when executed and acknowledged in duplicate and accompanied by such affidavits as may be required by applicable provisions of sections 1 to 18 of this act, shall be presented to the secretary of state for filing in the records of the office of the secretary of state.

2. If the secretary of state shall find that the articles presented conform to the requirements of sections 1 to 18 of this act, he or she shall file one copy of the articles so presented in the records of the office of the secretary of state and upon such filing the incorporation, amendment, consolidation, merger, conversion or dissolution provided for in such articles shall be in effect.

Section 7. The provisions of the securities law of this state shall not apply to any note, bond or other evidence of indebtedness issued by any nonprofit water company transacting business in this state pursuant to sections 1 to 18 of this act to the United

States of America or to any agency or instrumentality of the United States of America, or to any mortgage or deed of trust executed to secure such indebtedness. The provisions of the securities law of this state shall not apply to the issuance of membership certificates by any nonprofit water company.

Section 8. 1. No person shall become a member of a nonprofit water company unless such person shall agree to use services furnished by the company when such shall be available through its facilities. The bylaws of a company shall provide that any person, including an incorporator, shall cease to be a member of such company if such person shall fail or refuse to use services made available by the company or if services shall not be made available to such person by the company within a specified time after such person shall have become a member of such company. Membership in the company shall not be transferable, except as provided in the bylaws. The bylaws may prescribe additional qualifications and limitations with respect to membership.

2. An annual meeting of the members shall be held at such time as shall be provided in the bylaws.

3. Special meetings of the members may be called by the board of directors, by any three directors, by not less than ten percent of the members or by the president.

4. Meetings of members shall be held at such place as may be provided in the bylaws. In the absence of any such provisions, all meetings shall be held in the city or town in which the principal office of the company is located.

5. Except as otherwise provided in sections 1 to 18 of this act, written or printed notice stating the time and place of each meeting of members and, in the case of a special meeting, the purpose or purposes for which the meeting is called, shall be given to each member, either personally or by mail, not less than ten nor more than twenty-five days before the date of the meeting.

6. Two percent of the members, present in person or by mail or proxy shall constitute a quorum for the transaction of business at all meetings of the members, unless the bylaws prescribe the presence of a greater percentage of the members for a quorum. If less than a quorum is present at any meeting, a majority of those present in person may adjourn the meeting from time to time without further notice.

7. Each member shall be entitled to one vote on each matter submitted to a vote at a meeting. Voting shall be in person, but, if the bylaws so provide, may also be by proxy or by mail, or both. If the bylaws provide for voting by proxy or by mail, they shall also prescribe the conditions under which proxy or mail voting shall be exercised.

Section 9. Notwithstanding any other provision of law, the bylaws may provide that the territory in which a company supplies water services may be divided into two or more voting districts for the purpose of properly distributing its directors over the area in which its members reside. In such case the bylaws shall prescribe the manner

in which such voting districts shall function in the election of directors at annual meetings.

Section 10. 1. The business and affairs of a company shall be managed by a board of not less than five directors, each of whom shall be a member of the company. The bylaws shall prescribe the number of directors, their qualifications, other than those provided for in sections 1 to 18 of this act, the manner of holding meetings of the board of directors and of the election of successors to directors who shall resign, die or otherwise be incapable of acting. The bylaws may also provide for the removal of directors from office and for the election of their successors. Without approval of the members, directors shall not receive any salaries for their services as directors. The bylaws may, however, provide that a fixed fee and expenses of attendance, if any, may be allowed to each director for attendance at each meeting of the board of directors.

2. The directors of a company named in any articles of incorporation, consolidation, merger or conversion, as the case may be, shall hold office until the next following annual meeting of the members or until their successors shall have been elected and qualified.

3. The bylaws shall provide that the directors shall be divided into three classes, each class to be as nearly equal in number as possible, with the term of office of the directors of the first class to expire at the next succeeding annual meeting, the term of the second class to expire at the second succeeding annual meeting and the term of the third class to expire at the third succeeding annual meeting. At each annual meeting after such classification, a number of directors equal to the number of the class whose term expires at the time of such meeting shall be elected to hold office until the third succeeding annual meeting.

4. A majority of the board of directors shall constitute a quorum.

5. The board of directors may exercise all of the powers of a company except those conferred upon the members by sections 1 to 18 of this act, its articles of incorporation or its bylaws. Nothing in sections 1 to 18 of this act shall be deemed to prohibit a nonprofit water company from contracting with any other person or entity for any services needed by the nonprofit water company including, but not limited to, management or operations services.

Section 11. The officers of a nonprofit water company shall consist of a president, vice president, secretary and treasurer, who shall be elected annually. No person shall continue to hold the offices of president or vice president after he or she shall have ceased to be a director. The offices of secretary and of treasurer may be held by the same person and need not be a member of the board of directors. The board of directors may also elect or appoint such other officers, agents or employees as it shall

deem necessary or advisable and shall prescribe the powers and duties of such officers, agents and employees. Any officer may be removed from office and such officer's successor elected in the manner prescribed in the bylaws.

Section 12. 1. Every nonprofit water company constructing, maintaining and operating its water lines and treatment facilities shall construct, maintain and operate such lines and facilities in conformity with the rules and regulations relating to the manner and methods of construction, maintenance and operation and as to safety of the public with other lines and facilities now or hereafter from time to time prescribed by the department of natural resources or by law for the construction, maintenance and operation of such lines or systems. The jurisdiction, supervision, powers and duties of the department of natural resources shall extend to every such nonprofit water company so far as it concerns the construction, maintenance and operation of the physical equipment of such company to the extent of providing for the safety of employees and the general public.

2. The public service commission shall not have jurisdiction over the construction, maintenance or operation of the water facilities, service, rates, financing, accounting or management of any nonprofit water company; except that, the public service commission shall have authority to approve the reorganization of any existing company regulated by the public service commission.

Section 13. Revenues of a nonprofit water company for any fiscal year in excess of the amount necessary:

(1) To defray expenses of the company and of the operation and maintenance of its facilities during such fiscal year;

(2) To pay interest and principal obligations of the company coming due in such fiscal year;

(3) To finance, or to provide a reserve for the financing of, the construction or acquisition by the company of additional facilities to the extent determined by the board of directors;

(4) To provide a reasonable reserve for working capital;

(5) To provide a reserve for the payment of indebtedness of the company maturing more than one year after the date of the incurrence of such indebtedness in an amount not less than the total of the interest and principal payments on such indebtedness that are required to be made during the next following fiscal year; and

(6) To provide a fund for education in the effective use of services made available by the company;

shall, unless otherwise determined by a vote of the members, be distributed by the company to its members as patronage refunds prorated in accordance with the patronage of the company by the respective members paid for during such fiscal year.

Section 14. Nothing in sections 1 to 18 of this act shall be construed to prohibit the payment by a company of all or any part of its indebtedness prior to the date when such indebtedness shall become due.

Section 15. 1. A nonprofit water company which has not commenced business may dissolve voluntarily by delivering to the secretary of state articles of dissolution, executed and acknowledged in duplicate on behalf of the company by a majority of the incorporators, which shall state:

- (1) The name of the nonprofit water company;**
- (2) The address of its principal office;**
- (3) The date of its incorporation;**
- (4) That the company has not commenced business;**
- (5) That the amount, if any, actually paid in on account of membership fees, less any part of such fees disbursed for necessary expenses, has been returned to those entitled to such fees and that all easements shall have been released to the grantors;**
- (6) That no debt of the company remains unpaid; and**
- (7) That a majority of the incorporators elect that the company be dissolved.**

2. Such articles of dissolution shall be submitted to the secretary of state for filing.

Section 16. A nonprofit water company which has commenced business may dissolve voluntarily and wind up its affairs in the following manner:

(1) The board of directors shall first recommend that the company be dissolved voluntarily and after such recommendation the proposition that the company be dissolved shall be submitted to the members of the company at any annual or special meeting, the notice of which shall set forth such proposition. The proposed voluntary dissolution shall be deemed to be approved upon the affirmative vote of not less than a majority of the members;

(2) Upon such approval, a certificate of election to dissolve, designated as the certificate, shall be executed and acknowledged in duplicate on behalf of the company by its president or vice president, and its corporate seal shall be affixed thereto and attested by its secretary. The certificate shall state:

- (a) The name of the nonprofit water company;**
- (b) The address of its principal office;**
- (c) The names and addresses of its directors; and**
- (d) The total number of members of the company and the number of members who voted for and against the voluntary dissolution of the company.**

The president or vice president executing the certificate shall also make and annex to such certificate an affidavit stating that the provisions of this subdivision and subdivision (1) of this section were duly complied with. Such certificate and affidavit

shall be submitted to the secretary of state for filing;

(3) Upon the filing of the certificate and affidavit by the secretary of state, the company shall cease to carry on its business except as necessary for the winding up of such business, but its corporate existence shall continue until articles of dissolution have been filed by the secretary of state;

(4) After the filing of the certificate and affidavit by the secretary of state the board of directors shall immediately cause notice of the winding up proceedings to be mailed to each known creditor and claimant. Such notice shall be published once a week for two successive weeks in a newspaper of general circulation in the county in which the principal office of the company is located;

(5) The board of directors shall become trustees and have full power to wind up and settle the affairs of the company and shall proceed to collect the debts owing to the company, convey and dispose of its property and assets, pay, satisfy and discharge its debts, obligations and liabilities and do all other things required to liquidate its business and affairs, and after paying or adequately providing for the payment of all its debts, obligations and liabilities, shall distribute the remainder of its property and assets either:

(a) Among its members in proportion to the aggregate patronage of each such member during the seven years next preceding the date of such filing of the certificate, or, if the company shall not have been in existence for such period, during the period of its existence; or

(b) For one or more exempt purposes as provided in section 501(c)(3) of the Internal Revenue Code of 1986, as amended, or to the federal government or to the state or a local government or a political subdivision of the state for a public purpose; and

(6) (a) When all debts, liabilities and obligations of the company have been paid and discharged or adequate provision shall have been made for the payment of such debts, liabilities and obligations and all of the remaining property and assets of the company shall, pursuant to sections 1 to 18 of this act and pursuant to the articles of incorporation of the company, have been distributed to the members pursuant to sections 1 to 18 of this act, the board of directors shall authorize the execution of articles of dissolution which shall then be executed and acknowledged on behalf of the company by its president or vice president, and its corporate seal shall be affixed thereto and attested by its secretary. Such articles of dissolution shall recite in the caption that they are executed pursuant to sections 1 to 18 of this act and shall state:

a. The name of the nonprofit water company;

b. The address of the principal office of the company;

c. That the company has heretofore delivered to the secretary of state a certificate of election to dissolve and the date on which the certificate was filed by the

secretary of state in the records of his office;

d. That all debts, obligations and liabilities of the company have been paid and discharged or that adequate provision has been made for the payment of such debts, obligations and liabilities;

e. That all the remaining property and assets of the company have been distributed pursuant to sections 1 to 18 of this act and the articles of incorporation of the company; and

f. That there are no actions or suits pending against the company.

(b) The president or vice president executing the articles of dissolution shall also make and annex to such articles an affidavit stating that the provisions of this section were duly complied with.

(c) Such articles of dissolution and affidavit, accompanied by proof of the publication required in this section, shall be submitted to the secretary of state for filing.

Section 17. Sections 1 to 18 of this act shall be construed liberally. The enumeration of any object, purpose, power, manner, method or thing shall not be deemed to exclude like or objects, purposes, powers, manners, methods or things. To the extent that sections 1 to 18 of this act do not speak to an issue, the provisions applicable to mutual benefit not for profit corporations or limited liability companies, as the nonprofit water company may elect in its articles of incorporation, which are not inconsistent with the provisions of sections 1 to 18 of this act shall apply to nonprofit water companies.

Section 18. The private property of the members of a nonprofit water company shall be exempt from execution for the debts of the company and no member shall be liable or responsible for any debts of the company.

Section 19. 1. Notwithstanding any other provision of law to the contrary, except as provided in subsection 2 of this section, a claim against a nonprofit water company dissolved pursuant to sections 1 to 18 of this act for which the nonprofit water company has a contract of insurance which will indemnify such corporation for any adverse result from such claim:

(1) Is not barred by the dissolution of such nonprofit water company;

(2) May be asserted at any time within the statutory period otherwise authorized provided by law for such claims;

(3) May be asserted against the dissolved or dissolving nonprofit water company, with service to be made upon the officer who signed the articles of dissolution, and, at the request of the party bringing the suit, the court shall appoint a defendant ad litem.

2. Judgments obtained in suits filed and prosecuted pursuant to this section shall only be enforceable against one or more contracts of insurance issued to the

corporation, its officers, directors, agents, servants or employees, indemnifying them, or any of them, against such claims.

3. Suits against nonprofit water companies shall be brought either in the county in which the cause of action accrued or in any county in which the nonprofit water company has or prior to dissolution had an office for the transaction of business.

Section B. Sections 72.409 and 72.416, RSMo 1994, and sections 72.400, 72.401, 72.402, 72.403, 72.405, 72.407, 72.408, 72.410, 72.412, 72.418 and 72.422, RSMo Supp. 1998, are repealed and fifteen new sections enacted in lieu thereof, to be known as sections 66.405, 72.400, 72.401, 72.402, 72.403, 72.405, 72.407, 72.408, 72.409, 72.412, 72.416, 72.418, 72.422, 91.055 and 20, to read as follows:

66.405. 1. If approved by a majority of the voters voting on the proposal, a county of the first classification having a population of over nine hundred thousand inhabitants may, by ordinance, levy and impose annually, upon water service lines providing water service to residential property having four or fewer dwelling units, on a countywide basis, including both the incorporated and unincorporated areas of such county, a fee not to exceed one dollar per month or an equivalent rate collected at some other interval.

2. The ballot of submission shall be in substantially the following form:

For the purpose of repair or replacement of water lines extending from the water main to a residential dwelling due to failure of the line or for road relocation, shall county be authorized to impose a fee not to exceed one dollar per month or an equivalent rate collected at some other interval upon all water service lines providing water service within the county to residential property having four or fewer dwelling units for the purpose of paying for the costs of necessary water service line repairs, replacements or relocations caused by improvements to public right-of-way?

G Yes

G No

3. For the purpose of this section, a water service line may be defined by local ordinance, but may not include the water meter or exceed that portion of water piping and related valves and connectors which extends from the water mains owned by the utility or municipality distributing public water supply to the first opportunity for a connection or joint beyond the point of entry into the premises receiving water service, and may not include facilities owned by the utility or municipality distributing public water supply. For purposes of this section, repair may be defined and limited by local ordinance, and may include replacement, repairs or relocation when made necessary by improvements to public right-of-way.

4. If a majority of the voters voting thereon approve the proposal authorized in subsection 1 of this section, the governing body of the county may enact an ordinance for the collection of such fee. The funds collected pursuant to such ordinance shall be

deposited in a special account to be used solely for the purpose of paying for the reasonable costs associated with and necessary to administer and carry out the water service line repairs as defined in the ordinance and, if sufficient revenues are available, to reimburse the necessary costs of water service line repair, replacement or relocation made necessary by public right-of-way improvements.

5. The county may contract with any provider of water service in the county to bill and collect such fees along with bills for water service and to pursue collection of such amounts through discontinuance of service as may be directed by the county. The county may establish, as provided in the ordinance, regulations necessary for the administration of collections, claims, repairs, relocations, replacements and all other activities necessary and convenient for the implementation of any ordinance adopted and approved pursuant to this section. The county may administer the program or may contract with one or more persons, through a competitive process, to provide for administration of any portion of implementation activities of any ordinance adopted and approved pursuant to this section, and reasonable costs of administering the program may be paid from the special account established pursuant to this section.

72.400. As used in sections 72.400 to [72.418] **72.422 and section 20 of this act**, the following terms mean:

(1) "Boundary adjustment", an adjustment of a boundary between two municipalities or a municipality and the unincorporated area of the county involving [two] **all or part of one or more** residential parcels [in common ownership or portions of a single residential parcel] in common ownership or an adjustment between two municipalities or a municipality and the unincorporated area of the county involving only public property or public rights-of-way;

(2) "Boundary change", any annexation, consolidation, incorporation, transfer of jurisdiction between municipalities or between a municipality and the county, or combination thereof, which, if approved, would result in a municipality composed of contiguous territory;

(3) "Commission", a boundary commission established pursuant to this section;

(4) "Contiguousness", territory proposed for annexation in which at least fifteen percent of its boundary is adjacent to the municipality which is proposing the annexation **or territory proposed for addition to an established unincorporated area in which at least fifteen percent of its boundary is adjacent to the established unincorporated area;**

(5) "Established unincorporated area", an area in the unincorporated area of the county which has been approved by the voters pursuant to section 72.422 to remain unincorporated and not subject to any boundary change except as otherwise provided;

[(5)] (6) "Proposing agent", the governing body of any municipality which by ordinance has adopted a boundary change proposal or the governing body of the county which by ordinance has adopted a boundary change proposal, **or the chief elected official of the county who has authorized the filing of an unincorporated area proposal**, or a person presenting petitions

for incorporation signed by a number of registered voters equal to not less than fifteen percent of the number of votes cast for governor in the last gubernatorial election in the total combined area affected by the boundary change proposal. Petitions submitted by proposing agents may be submitted with exclusions for the signatures collected in areas originally included in the proposal but subsequently annexed or incorporated separately as a municipality, although the commission shall be satisfied as to the sufficiency of the signatures for the final proposed area;

[(6) "Simplified boundary change", an annexation initiated by a verified petition signed by seventy-five percent of the residential property owners of all fee interests of record of the area proposed for annexation and filed by the annexing municipality and which the commission determines and finds should be approved without voter approval;]

(7) "Voting jurisdiction", a city, town or village, or areas of unincorporated territory with boundaries established by the commission for purposes of holding a boundary change election.

72.401. 1. If a commission has been established pursuant to section 72.400 **in any county with a charter form of government where fifty or more cities, towns and villages have been established**, any boundary change within the county shall proceed solely and exclusively in the manner provided for by sections 72.400 to [72.420] **72.422 and section 20 of this act**, notwithstanding any statutory provisions to the contrary concerning such boundary changes.

2. In any county with a charter form of government where fifty or more cities, towns and villages have been established, there shall be no incorporation of any new city, town, or village wholly or partially in such county, nor any annexation or consolidation of any area wholly or partially in such county for one hundred twenty days after [June 2, 1995] **the effective date of this section**, except [for the following:

(1) As provided in subsection 3 of this section; or

(2)] where the governing body of the county specifically adopts an ordinance stating that a boundary commission shall not be established in the county, such incorporation, annexation or consolidation may resume after the effective date of the ordinance. Immediately after the expiration of such moratorium, if the governing body of such county has by ordinance established a boundary commission, as provided in sections 72.400 to [72.420] **72.422 and section 20 of this act**, then [annexation, incorporation and consolidation] **boundary changes** in such county shall proceed only as provided in sections 72.400 to [72.420] **72.422 and section 20 of this act**. [The procedures established in section 72.420 shall remain applicable to counties of the first classification where fifty or more cities, towns and villages have been established. The provisions of sections 72.400 to 72.420 shall expire on December 31, 2002, unless the general assembly reauthorizes such provisions prior to December 31, 2002.

3. Notwithstanding any provisions of law to the contrary, any boundary changes approved by voters, simplified boundary changes approved by one hundred percent of the property owners and the governing body of the annexing city, and exchanges of land agreed to by the governing

bodies of the jurisdictions involved in the exchange, which have been approved or agreed to prior to June 2, 1995, and which have not yet taken effect at the time of the first meeting of the boundary commission shall not be subject to commission approval.

4. Any proposal for incorporation by petition of at least six thousand registered voters which has been submitted to the governing body of the county under section 72.080 by June 30, 1995, shall not be subject to commission approval, and such boundary changes shall become effective on the date determined by the jurisdictions involved or by court order. Notice of such boundary changes shall be provided to the commission.

5.] 3. The commission, if any, which exists on the effective date of this section is abolished. The commission shall be composed of eleven members as provided in this subsection. No member ~~[or],~~ employee **or contractor** of the commission shall be an elective official, employee or contractor **of the county or** of any political subdivision **within the county** or of any organization representing political subdivisions or officers or employees of political subdivisions. Each of the appointing authorities described in subdivisions (1) to ~~[(5)]~~ **(3)** of this subsection shall appoint persons who shall be residents of their respective locality so described. The appointing authority making the appointments shall be:

(1) The chief elected officials of all municipalities wholly within the county which have a population of more than twenty thousand persons, who shall name ~~[the number of]~~ **two** members to the commission as prescribed in this subsection **each of whom is a resident of a municipality within the county of more than twenty thousand persons;**

(2) The chief elected officials of all municipalities wholly within the county which have a population of twenty thousand or less but more than ten thousand persons, who shall name ~~[the number of members]~~ **one member** to the commission as prescribed in this subsection **who is a resident of a municipality within the county with a population of twenty thousand or less but more than ten thousand persons;**

(3) The chief elected officials of all municipalities wholly within the county which have a population of ten thousand persons or less, who shall name ~~[the number of members]~~ **one member** to the commission as prescribed in this subsection **who is a resident of a municipality within the county with a population of ten thousand persons or less;**

(4) ~~[Each member of the county council of the three county council districts with the largest number of residents residing within the unincorporated area of the county, who shall each be allowed to nominate one member of the commission in the manner prescribed in this subdivision. Each such county council member shall submit a list of two residents of the unincorporated area of such member's district to the county executive, and the county executive shall select one person from each list so submitted to be a member of the commission. If a list is not submitted to the county executive by the times prescribed in subsection 6 of this section, the county executive shall name a person to be a member of the commission]~~ **An appointive body**

consisting of the director of the county department of planning, the president of the municipal league of the county, one additional person designated by the county executive, and one additional person named by the board of the municipal league of the county, which appointive body, acting by a majority of all of its members, shall name three members of the commission who are residents of the county; and

(5) The county executive of the county, who shall name [two of the] **four** members of the commission, **three of whom shall be** from the unincorporated area of the county **and one of whom shall be from the incorporated area of the county**. The seat of a commissioner shall be automatically vacated when the commissioner [ceases to be a resident member of the appointing group. The vacancy shall be filled according to subsection 7 of this section. Each appointing authority described in subdivisions (1) to (3) of this subsection shall appoint a member for every sixteen and two-thirds percent, rounded up or down to the nearest sixteen and two-thirds percent, of the population of the county which resides in the municipalities described in such subdivisions. In the event that rounding would result in more than six members from the three municipal appointing authorities, then rounding up shall not apply to the appointing authority farthest from the next higher sixteen and two-thirds percent. Percentages and populations shall be calculated according to the last federal decennial census. They shall be calculated as of June 30, 1995] **changes his or her residence so as to no longer conform to the terms of the requirements of the commissioner's appointment. The commission shall promptly notify the appointing authority of such change of residence.**

[6.] **4.** Upon the passage of an ordinance by the governing body of the county establishing a boundary commission, the governing body of the county shall, within ten days, send by United States mail written notice of the passage of the ordinance to the chief elected official of each municipality wholly or partly in the county.

5. Each of the appointing authorities described in subdivisions (1) to [(3)] **(4)** of subsection [5] **3** of this section shall meet within thirty days of the passage of the ordinance establishing the commission to compile its list of appointees. Each list shall be delivered to the county executive within forty-one days of the passage of such ordinance. The county executive shall appoint members [representing the unincorporated areas of the county] within forty-five days of the passage of the ordinance. If a list is not submitted by the time specified, the county executive shall appoint the members using the criteria of subsection [5] **3** of this section before the sixtieth day from the passage of the ordinance. [On the sixty-first day from the passage of such ordinance, the commission shall begin to exercise the powers and duties assigned to it by sections 72.400 to 72.418.] At the first meeting of the commission **appointed after the effective date of the ordinance**, the commissioners shall choose by lot the length of their terms. Three shall serve for one year, two for two years, two for three years, two for four years, and two for five years. All succeeding commissioners shall serve for five years. Terms shall end on December thirty-first of

the respective year. No commissioner shall serve more than two consecutive full terms. Full terms shall include any term longer than two years.

[7.] 6. When a member's term expires, or if a member is for any reason unable to complete his term, the respective appointing authority shall appoint such member's successor. [The appointee shall be determined by the appointing authority from whose list the outgoing member was appointed.] Each appointing authority shall act to ensure that each appointee is secured accurately and in a timely manner, when a member's term expires or as soon as possible when a member is unable to complete his term. A member whose term has expired shall continue to serve until his successor is appointed and qualified.

[8.] 7. The commission, its employees and subcontractors shall be subject to the regulation of conflicts of interest as defined in sections 105.450 to 105.498, RSMo, and to the requirements for open meetings and records under chapter 610, RSMo.

[9.] 8. Notwithstanding any provisions of law to the contrary, any boundary adjustment approved by the residential property owners and the governing bodies of the affected municipalities or the county, if involved, shall not be subject to commission review. **Such a boundary adjustment is not prohibited by the existence of an established unincorporated area.**

72.402. The commission shall enact and adopt all rules, regulations and procedures that are reasonably necessary to achieve the objectives of sections 72.400 to [72.420] **72.422 and section 20 of this act** no sooner than twenty-seven calendar days after notifying all municipalities and the county of the proposed rule, regulation or procedure enactment or change. Notice may be given by ordinary mail or by publishing in at least one newspaper of general circulation qualified to publish legal notices. No new or amended rule, regulation or procedure shall apply retroactively to any boundary change **or unincorporated area proposal** pending before the commission.

72.403. 1. The commission shall review all proposed boundary changes of any area wholly or partially within the county. [Such review] **After the effective date of this section, no boundary change or unincorporated area proposal shall be submitted to or considered by the commission until April 15, 2001, except for consolidations. Any boundary change or unincorporated area proposal pending before the commission on the effective date of this section shall be suspended on the effective date of this section and shall be further considered after April 15, 2001, only if such proposal is reflected in a map plan submitted to the commission pursuant to section 20 of this act, except an annexation proposal by a village with a population under three thousand five hundred where the initial public hearing will occur prior to July 1, 1999, such proposal shall continue notwithstanding other provisions of law to the contrary. Review** shall begin no later than thirty days after the plan of intent for the boundary change has been submitted to the commission

by the proposing agent or thirty days after [the commission is established] **April 15, 2001**, for [those] boundary changes **or unincorporated area proposals** which are pending on the **effective** date [on which the commission is established] **of this section**. The plan of intent shall address the criteria set forth in subsection 3 of this section. For the purposes of this subsection, the term "pending" means any proposal submitted to the commission which has not yet been [voted on by] **approved by the commission as a simplified annexation or approved for submission to** the qualified voters of the voting jurisdictions. No simplified boundary change involving territory already described in an annexation resolution or incorporation petition filed with the commission shall occur unless the annexation or incorporation proposal has been disapproved by the commission or defeated by voters. If more than one proposed change is received from the same proposing agency, the review of each additional proposed change shall begin not later than thirty days after the date that review was commenced for the next preceding proposed change or thirty days after receipt of the proposed changes were received by the commission; except that, if more than one proposed change is received by the commission from the same proposing agency on the same date, the commission may establish the order of review.

2. When a boundary change proposal has been submitted to the commission, the commission shall, within twenty-one days of receipt of such proposal, publish notice of such proposal and the date of the public hearing thereon in at least one newspaper of general circulation qualified to publish legal notices. Within twenty-one days of receipt of such proposal, the commission shall also mail written notification of such proposal and public hearing date to the county clerk, and to the city or village clerk of each municipality or village, and to any other political subdivision which, in the opinion of the commission, is materially affected by the proposal. The costs of publication and notification shall be borne by the proposing agent. The commission shall hold such public hearing concerning the proposal not less than fourteen nor more than sixty days after such publication and notification are complete. At such public hearing, **the county, the proposing agent and affected municipalities shall be parties, and any other** interested person, corporation, or political subdivision may **also** present evidence regarding the proposed boundary change. A boundary change proposal which has been disapproved by the commission and which is resubmitted with changes to the commission shall be subject to the public hearing requirement of this section, unless the commission determines that a public hearing on the resubmitted proposal is not necessary to achieve the objectives of sections 72.400 to [72.420] **72.422 and section 20 of this act**.

3. In reviewing any proposed boundary change, the commission shall approve such proposal if it finds that the boundary change will be in the best interest of the municipality or municipalities and unincorporated territories affected by the proposal and the areas of the county next to such proposed boundary. In making its determination, the commission shall consider the following factors:

(1) The impact, including but not limited to the impact on the tax base or on the ability to raise revenue, of such proposal on:

- (a) The area subject to the proposed boundary change and its residents;
 - (b) The existing municipality or municipalities, if any, proposing the boundary change and the residents thereof;
 - (c) Adjoining areas not involved in the boundary change and the residents thereof; and
 - (d) The entire geographic area of the county and its residents;
- (2) A legal description of the area to be annexed, incorporated, consolidated, [disincorporated,] or subject to the transfer of jurisdiction;

(3) The [ability to accommodate the orderly incorporation] **creation of logical and reasonable municipal boundaries** in the county, [including its] **and for such purpose the commission shall have the** ability to make additions, deletions and modifications which address legal boundaries, technical or service delivery problems or boundaries which overlap those of other proposals; however, such additions, deletions and modifications shall not make [substantive] **substantial** changes to any proposed boundary petition;

(4) The present level of major services provided by the municipality or other provider, provided to the unincorporated area by the county, and proposed to be provided by the annexing municipality or municipality to be incorporated or consolidated, including, but not limited to, police protection, fire protection, water and sewer systems, street maintenance, utility agreements, parks, recreation, and refuse collections;

(5) A proposed time schedule whereby the municipality or proposed municipality plans to provide such services to the residents of the area to be annexed, incorporated or consolidated within three years from the date the municipal boundary change is to become effective;

(6) The current tax rates of the areas subject to the proposal;

(7) What sources of revenue other than property tax are collected or are proposed to be collected by the municipality or proposed municipality;

(8) The extraordinary effect the boundary change will have on the distribution of tax resources in the county;

(9) How the municipality or proposed municipality proposes to zone any area not presently incorporated;

(10) The compactness of the area subject to such proposal;

(11) When the proposed boundary change shall become effective.

4. The provisions of section 71.910, RSMo, shall not apply to a proposing agent proceeding before the commission.

5. Nothing in sections 72.400 to [72.420] **72.422 and section 20 of this act** shall be construed to prevent the boundary commission or its staff from advising proposing agents on issues related to proposals. The commission may meet informally, subject to the requirements of

chapter 610, RSMo, with the representatives of municipalities, other government entities or county residents with regard to future boundary changes.

72.405. 1. For any proposed boundary change submitted after August 28, 1995, the commission shall issue a finding approving or disapproving such proposals within nine months after such submittal, **except that final action may be deferred on part or all of a boundary change proposal when necessary to accommodate an overlapping boundary change or unincorporated area proposal as more particularly provided in subsection 10 of this section.** If the commission finds in favor of a proposed boundary change, it shall submit the question to the voters residing within the areas subject to the proposed boundary change, except as provided in subsection 6 of this section.

2. If a boundary change is proposed by a municipality or the county and if the commission finds against the proposed boundary change submitted by a municipality or the county, it shall disapprove the boundary change proposal. In disapproving any boundary change proposal, the commission shall issue a document indicating the reasons such proposal was disapproved. No election shall be held on any such proposal not approved by the commission.

3. If the boundary change is **an incorporation** proposed pursuant to a petition, the commission may make such changes in the proposal as it finds would result in an acceptable proposal, such changes to include but not be limited to additions, deletions or the modification of a proposal which contains boundaries which overlap those boundaries contained in any other proposal. After submittal, the commission may allow the proposing agent to make minor additions, deletions or modifications which do not substantially alter the proposal. When reviewing more than one boundary change proposal made by petition, the commission may consolidate two or more unincorporated areas into one proposed boundary change. Any changes made by the commission shall meet the criteria established in section 72.403.

4. Where a proposal submitted by a municipality, the county or by a petition, contains more than two voting jurisdictions, the commission may provide for approval of a boundary change comprising only those municipalities **and unincorporated area** where a majority of voters approve the boundary change **[and unincorporated area]** if the resulting municipality would meet the criteria established in section 72.403.

5. If a boundary change is proposed by a municipality or the county and the commission determines that there is a minor error or discrepancy in the legal descriptions of the areas subject to the proposal as submitted by the municipality or county, then the commission with the concurrence of the proposing agent may make such changes to the proposal as are necessary to rectify the error in the legal description.

6. A simplified boundary change may be proposed by:

(1) A verified petition signed by seventy-five percent of the registered voters within the area proposed to be annexed **which is predominately residential in character and has an**

average residential density of not less than one dwelling per three acres which is filed by the annexing municipality; or

(2) [A proposal] **Two municipalities** for a transfer of jurisdiction between [municipalities or] **them or a municipality and the county for a transfer of jurisdiction** between a municipality and the county. Within twenty-one days of receipt of a proposal under this subsection, the commission shall publish notice of such proposal and the date of the public hearing thereon in at least one newspaper of general circulation qualified to publish legal notices. The commission shall, within twenty-one days of receipt of such proposal, mail written notification of such proposal and the date of the public hearing thereon to the county clerk, and to the city or village clerk of each municipality or village, and to any other political subdivision which, in the opinion of the commission, is materially affected by such proposal. The commission shall hold a public hearing concerning the matter not less than fourteen nor more than sixty days after such publication and notification is complete. At the public hearing any interested person, corporation or political subdivision may present evidence regarding the proposed boundary change. Within four months of receipt of the proposal, the commission shall determine whether to disapprove the proposal, or to approve the proposal and allow it to proceed as an approved boundary change to be adopted or rejected by the voters pursuant to section 72.407 [or 72.410], or to approve the proposal as a simplified boundary change, for which no vote shall be required, **except that final action may be deferred on part or all of a simplified boundary change proposal when necessary to accommodate an overlapping boundary change or unincorporated area proposal as more particularly provided in subsection 10 of this section.** In making its determination, the commission shall consider the factors set forth in subsection 3 of section 72.403. If the commission determines that the proposal should be approved as a simplified boundary change, such proposal shall become effective upon the date set forth in the commission's written report of approval.

7. A municipality which wishes to propose a boundary change containing two or more unincorporated areas that are noncontiguous to each other shall submit separate proposals for the unincorporated areas that are noncontiguous to each other, in which case there shall be a separate vote for each proposal approved by the commission. The municipality may:

(1) Adopt and submit separate ordinances for each such separate proposal; or

(2) Adopt and submit one ordinance containing said separate proposals, which ordinance shall clearly state that the municipality is making multiple, separate proposals, and is desirous of separate votes for each separate proposal. The ordinance shall also clearly identify each separate proposal that the municipality is making.

8. The commission shall not approve any boundary change proposal in which more than fifty percent of the combined land subject to the proposal is unincorporated territory or territories unless the area subject to the proposal has a population of more than ten thousand persons.

9. A proposing agent may modify its proposal and submit additional information during the review period.

10. The commission may defer final action on part or all of a boundary change proposal or proposal for an established unincorporated area beyond the periods provided for their consideration in order to allow an election with respect to an overlapping boundary change or unincorporated area proposal in order to maximize the ability of voters to determine their own status. Such deferral may be ordered only when the proposal granted such priority is filed with the commission no later than sixty days after the proposal on which action will be deferred and only when the commission determines that the population of the overlapping area is a greater proportion of the proposal given priority than of the proposal on which action is deferred. The commission shall take final action on the deferred proposal within forty-five days of the election at which the proposal granted priority is decided. The proposing agent may modify the proposal in accordance with the results of the election.

72.407. 1. Boundary changes may be adopted by the voters in the following manner:

(1) If the commission approves a proposed boundary change containing more than one municipality and no unincorporated areas, such proposal shall be adopted if a separate majority of the votes cast on the question in each municipality are in favor of the boundary change, except as provided in subsection 4 of section 72.405;

(2) If the commission approves a proposed boundary change containing one or more municipalities and at least one unincorporated area, such proposal shall be adopted if a separate majority of the votes cast on the question in each municipality and a separate majority of votes cast in each voting jurisdiction comprising unincorporated areas of the county are in favor of the boundary change, except as provided in subsection 4 of section 72.405. If a voting jurisdiction comprising unincorporated areas of the county has no residents or if no votes are cast for or against the boundary change, such boundary change shall become effective if a majority of the votes cast in all other voting jurisdictions and municipalities are in favor of the boundary change. [On or after January 1, 1996,] If the commission approves a proposed boundary change containing one or more municipalities and at least one unincorporated area which is classified as an unincorporated pocket, such proposal shall be adopted if a separate majority of the votes cast on the question in each municipality and a majority of votes cast in the whole municipality which would result from the boundary change are in favor of the boundary change, except as provided in subsection 4 of section 72.405. As used in this subdivision, the term "unincorporated pocket" means an unincorporated territory with an average residential density in excess of one dwelling per three acres, [and] which has a population of no more than [two thousand] five hundred [and], which is accessible by public or private roadway only from incorporated jurisdictions and/or another county, **and which the commission has determined presents practical difficulties**

for service by the county by reason of its isolation.

2. Any election held pursuant to sections 72.400 to [72.420] **72.422 and section 20 of this act** shall be held on a date established by the commission in accordance with the provisions of chapter 115, RSMo. If the proposing agent is a petitioner or the governing body of the county, all costs of the election shall be paid by the county. If the proposing agent is the governing body of any municipality, the cost of such election in each municipality shall be paid by each municipality and if the proposal contains any unincorporated territory the cost of the election in the unincorporated territory shall be paid by the county.

3. Questions concerning the annexation of an area covered by sections 72.400 to [72.418] **72.422 and section 20 of this act** and the incorporation of the same area shall not be put to the voters at the same election. Any such election where the questions of annexation and incorporation have been put to the voters shall be void in the area covered by both propositions. This subsection shall not affect the results of that election in areas where both questions were not put to the voters at the same time. When boundary change proposals for annexation and for incorporation cover the same area, the proposal for annexation shall be put to the voters first.

72.408. 1. If a boundary change is disapproved by the voters, no boundary change which contains more than sixty percent of the area of the disapproved boundary change shall be submitted to or processed by the commission any sooner than two years after the date of the disapproved boundary change.

2. Every petition shall be presented to the commission within two hundred eighty days following the date on which the first signature was affixed to the petition, or any part thereof, **except that the period of time from the effective date of this section to April 15, 2001, shall be excluded.** Failure to present a petition within the foregoing time period shall render the petition absolutely void.

72.409. 1. If a proposed boundary change is approved by the voters, such proposal shall be effective six months following the date of the election or the date specified in such proposal, whichever date is later. Immediately following the certification of the election, the commission shall establish a committee to determine the details of the transition. The governing body of each affected municipality shall select two members and the governing body of the county in which each unincorporated territory is situated shall select two members from the affected unincorporated territory to meet with similar members appointed from other affected municipalities and the unincorporated territory. The committee shall disband no later than the date the boundary change becomes effective. The governing body of the county may delay declaring a newly incorporated municipality for a period not to exceed six months at the request of the boundary commission to provide for an orderly transition from unincorporated to incorporated status.

2. If a conflict shall exist between the provisions of sections 72.400 to [72.420] **72.422 and**

section 20 of this act and the orders, ordinances or charters of any statutory or charter cities affected by sections 72.400 to [72.420] **72.422 and section 20 of this act**, the provisions of sections [72.405 to 72.409] **72.400 to 72.422** shall prevail.

3. If a boundary change involves an annexation, failure of the proposing agent to provide services to the area being annexed or to zone in compliance with the "Plan of Intent" required of the proposing agent within three years of the boundary change becoming effective, unless compliance is made unreasonable, shall give rise to a cause of action for deannexation which may be filed in the circuit court by any resident who was residing in the area at the time the boundary change became effective.

[72.410. If a boundary change is proposed by petition of seventy-five percent of the residential property owners of all fee interests of record in all tracts of real property located within the area proposed, then any election ordered pursuant to subdivision (2) of subsection 6 of section 72.405 shall be conducted in the petitioning area and the receiving municipality.]

72.412. 1. The commission, once established, shall not be a county commission but shall act as an independent commission. The commission may hire such staff and acquire such facilities as it finds necessary to carry out its duties.

2. The commission shall submit a budget requesting the funds necessary to carry out its duties pursuant to sections 72.400 to [72.418] **72.422 and section 20 of this act**. The county shall appropriate and provide a reasonable and necessary level of funding for the commission to carry out its statutory duties. In addition, the county shall upon request provide petitioners with such available information as may be necessary to develop a plan of intent. Funding must provide for at least one professional staff person, one attorney or the equivalent funds for legal services, and clerical support for the professional staff and attorney. All salary levels shall be based upon the personnel system in use for county employees.

3. The commission shall [report annually upon proposals for legislation dealing with joint service arrangements, contracting for services, revenue sharing, and other issues affecting local government in the county. The commission shall make such report available to the municipalities in the county, to the county government, and to all other interested persons] **provide by rule for an application fee for municipal annexations in the amount of one dollar per resident of the proposed annexation area to defray the commission's cost of processing and reviewing proposals.**

72.416. **The county, an interested municipality, or any other interested party may bring an appropriate civil action against the commission regarding a proposed boundary change, unincorporated area proposal, or other commission action or failure to act.** In any civil action brought against the commission regarding a proposed boundary change, if the commission prevails in the action, the court may require the party who initiated the action

to pay to the commission the reasonable costs incurred by the commission in opposing such action, including attorney's fees.

72.418. 1. Notwithstanding any other provision of law to the contrary, no new city created pursuant to sections 72.400 to 72.418 shall establish a municipal fire department to provide fire protection services, including emergency medical services, if such city formerly consisted of unincorporated areas in the county or municipalities in the county, or both, which are provided fire protection services and emergency medical services by one or more fire protection districts. Such fire protection districts shall continue to provide services to the area comprising the new city and may levy and collect taxes the same as such districts had prior to the creation of such new city.

2. Fire protection districts serving the area included within any annexation by a city having a fire department, including simplified boundary changes, shall continue to provide fire protection services, including emergency medical services to such area. The annexing city shall pay annually to the fire protection district an amount equal to that which the fire protection district would have levied on all taxable property within the annexed area. Such annexed area shall not be subject to taxation for any purpose thereafter by the fire protection district except for bonded indebtedness by the fire protection district which existed prior to the annexation. The amount to be paid annually by the municipality to the fire protection district pursuant hereto shall be a sum equal to the annual assessed value multiplied by the annual tax rate as certified by the fire protection district to the municipality, including any portion of the tax created for emergency medical service provided by the district, per one hundred dollars of assessed value in such area. The tax rate so computed shall include any tax on bonded indebtedness incurred subsequent to such annexation, but shall not include any portion of the tax rate for bonded indebtedness incurred prior to such annexation. Notwithstanding any other provision of law to the contrary, the residents of an area annexed on or after May 26, 1994, may vote in all fire protection district elections and may be elected to the fire protection district board of directors.

3. The fire protection district may approve or reject any proposal for the provision of fire protection and emergency medical services by a city.

[4. Notwithstanding the provisions of section 72.401 to the contrary, this section shall not expire on December 31, 2002.]

72.422. 1. Notwithstanding any other provision of sections 72.400 to 72.420, residents of an unincorporated area of a county may remain unincorporated and not subject to any boundary change as provided by sections 72.400 to 72.420 if the following are satisfied:

(1) [A person presents to] **The county petitions** the boundary commission [a petition signed by a number of registered voters equal to not less than fifteen percent of the number of votes cast for governor in the last gubernatorial election in the unincorporated area];

(2) A legal description of the unincorporated area accompanies the petition. If there is a

minor error or discrepancy in the legal description of the unincorporated area, the commission, with the concurrence of the [proponents of the petition] **county**, may make such changes to the proposal as are necessary to rectify the error in the legal description;

(3) The unincorporated area **either** contains a population of not less than two thousand five hundred[; and

(4) Within thirty days of the filing of the petition, the commission shall make a determination whether the area described in the petition can be reasonably served.

2. Not later than thirty days after the receipt of the items set forth in subdivisions (1) to (4) of subsection 1 of this section, the commission upon finding that the proposal satisfies the criteria of subdivisions (1) to (4) of subsection 1 of this section shall submit the proposal to the voters within the described unincorporated area for voter approval or disapproval.] **or is contiguous with an existing established unincorporated area;**

(4) A plan of intent accompanies the petition addressing the issues to be considered by the commission.

2. When an unincorporated area proposal has been submitted to the commission, the commission shall, within twenty-one days of receipt of such proposal, publish notice of such proposal and the date of the public hearing thereon in at least one newspaper of general circulation qualified to publish legal notices. Within twenty-one days of receipt of such proposal, the commission shall also mail written notification of such proposal and public hearing date to the county clerk, and to the city or village clerk of each neighboring municipality or village, and to any other political subdivision which, in the opinion of the commission, is materially affected by the proposal. The costs of publication and notification shall be borne by the county. The commission shall hold such public hearing concerning the proposal not less than fourteen nor more than sixty days after such publication and notification are complete. At such public hearing, the county and any municipality with an overlapping map plan shall be parties, and any other interested person, corporation, or political subdivision may also present evidence regarding the unincorporated area proposal. An unincorporated area proposal which has been disapproved by the commission and which is resubmitted with changes to the commission shall be subject to the public hearing requirement of this section, unless the commission determines that a public hearing on the resubmitted proposal is not necessary to achieve the objectives of this section. The commission shall issue findings approving or disapproving such proposal within nine months after submittal, except that final action may be deferred on part or all of an unincorporated proposal when necessary to accommodate an overlapping boundary change proposal as more particularly provided in subsection 10 of section 72.405. The proposal shall be submitted at the next general or special election in accordance with the provisions of chapter 115, RSMo. The cost of the election

shall be paid by the county. If the proposal is approved by the voters then the area shall **be an established unincorporated area and shall** remain unincorporated territory for a period of five years from the date of the vote and shall not be subject to any boundary change provided for in sections 72.400 to 72.420.

3. [A petition submitted pursuant to this section and in accordance with the provisions of chapter 115, RSMo, shall take precedence over any other boundary change proposal which includes any territory within the unincorporated area described in the petition submitted pursuant to this section. No boundary change proposal which includes any territory within an unincorporated area described in a petition submitted pursuant to this section shall be approved or submitted to the voters until the unincorporated proposal is voted upon.] **In reviewing any proposed unincorporated area proposal, the commission shall approve such proposal if it finds that continued provision of local services to the area by the county will not impose an unreasonable burden on county government and that such designation is in the best interest of the unincorporated territories affected by the proposal and the areas of the county next to such area. In making its determination, the commission shall consider the following factors:**

(1) The impact, including but not limited to the impact on the tax base or on the ability to raise revenue, of such proposal on:

(a) The area subject to the proposed established unincorporated area and its residents;

(b) Adjoining areas not involved in the proposed established area and the residents thereof; and

(c) The entire geographic area of the county and its residents;

(2) A legal description of the unincorporated area;

(3) The creation of logical and reasonable municipal boundaries in the county, and for such purpose the commission shall have the ability to make additions, deletions and modifications which address legal boundaries, technical or service delivery problems or boundaries which overlap those of other proposals; however, such additions, deletions and modifications shall not make substantial changes to any proposed unincorporated area proposal;

(4) Whether approval of the unincorporated area proposal will result in unreasonable difficulty in provision of services by the county;

(5) The effect approval of the established unincorporated area will have on the distribution of tax resources in the county;

(6) The compactness of the area subject to such proposal.

4. [If the commission fails to comply with the provisions of this section, the proponents of the petition may file a mandamus action or other appropriate action to compel compliance with the ministerial duties set out in this section.] **After approval by the voters of an**

unincorporated area proposal, no boundary change affecting any part of such area shall be proposed to the commission until expiration of the area's status as an established unincorporated area, but map plans affecting the area may be filed during the planning period pursuant to section 20 of this act. If no map plan of a boundary change proposal with respect to an established unincorporated area has been submitted during the most recent planning period pursuant to section 20 of this act, the commission shall commence review of the circumstances of such established unincorporated area six months prior to its expiration, and shall submit reauthorization of such unincorporated area to the voters if the commission determines that its circumstances have not materially changed since it was approved.

91.055. Notwithstanding any other provision of law to the contrary, in a county of the first classification with a charter form of government and having a population of more than six hundred thousand but less than nine hundred thousand inhabitants, any person who is a water service customer of any municipality located in whole or in part in such county may continue to receive water service from such municipality even in the event that a public water supply district shall claim the exclusive right to provide water service to such person.

Section 20. 1. In any county in which a boundary commission has been established pursuant to section 72.400, RSMo, all boundary changes and unincorporated area proposals shall be subject to the five-year planning cycle mandated in this section. No municipality nor other person shall file, nor shall the commission accept or review, any boundary change or unincorporated area proposal which has not previously been submitted to the commission for map plan review and comment as provided in this section, except that consolidations of municipalities and transfers of jurisdiction may be sought at any time without prior submission for map plan review and comment as provided in this section.

2. Between January 1, 2000, and July 1, 2000, and between January first and July first of each sixth year thereafter, each municipality, the county, and any citizen group may present general maps of proposed boundary changes and proposed established unincorporated areas to the commission for map plan review. Proposed incorporations and unincorporated areas, if not submitted by the county, shall be submitted by petition of no less than five percent of the registered voters within the proposed area. Boundary change and unincorporated area maps shall not be accompanied by a plan of intent, but shall be depicted with sufficient detail and accuracy to permit review and comment.

3. Between August 1, 2000, and December 31, 2000, and each sixth year thereafter, the commission shall solicit written comments on all boundary change and established unincorporated area map plans and shall hold informational public

hearings in or near the affected areas, at which the county, any municipality, or other interested person shall be heard. The commission may encourage negotiation between parties involved in competing map plans. Map plans may be amended by the submitting parties until April fifteen of the year following map plan submission based on negotiation or based on the hearings or other comments, but no such amendment shall enlarge the boundary change or unincorporated area map plan beyond the area originally submitted, except for minor technical amendments necessary to address boundary issues.

4. The commission may by April first of the year following map plan submission issue written comments regarding each boundary change and unincorporated area map plan to notify proponents of the merits or demerits of such map plan based on planning and public policy considerations. The map plan as submitted or as amended by April fifteenth shall remain on file with the commission, and shall be the limit of permissible boundary changes and unincorporated area proposals as provided in subsection 1 of this section.

5. Proposals shall be submitted to the commission no later than July first of the third year following conclusion of map plan review. Any proposal which has not been approved by the commission by January first of the next review period year as provided in subsection 2 of this section shall expire without further action.

Section C. Due to the immediate need to provide assistance for repair and maintenance of water service lines in certain counties and because of the immediate need for clarification and correction of boundary change procedures, section B of this act is deemed necessary for the immediate preservation of the public health, welfare, peace and safety, and is hereby declared to be an emergency act within the meaning of the constitution, and section B of this act shall be in full force and effect upon its passage and approval.