

SECOND REGULAR SESSION

# HOUSE BILL NO. 2161

## 100TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE RONE.

4734H.011

DANA RADEMAN MILLER, Chief Clerk

### AN ACT

To repeal sections 246.070 and 246.160, RSMo, and to enact in lieu thereof two new sections relating to levee and drainage districts.

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

Section A. Sections 246.070 and 246.160, RSMo, are repealed and two new sections enacted in lieu thereof, to be known as sections 246.070 and 246.160, to read as follows:

246.070. 1. Whenever authorized by the owners of two-thirds of the acreage in any drainage or levee district heretofore or hereafter organized or reorganized under any of the drainage or levee laws of this state at a meeting called for the purpose and in the manner set out in section 246.090, by ballot wherein each acre owner shall be entitled to one vote, the board of supervisors may issue tax anticipation warrants bearing not to exceed six percent interest per annum, which shall be payable from one to not exceeding four years from date of issuance, both interest and principal payable out of the maintenance fund of the district.

2. In addition to the procedure provided in subsection 1 of this section, the board of supervisors of a levee or drainage district [~~in a county which has been declared a disaster area by declaration of the President of the United States during 1993 or 1995,~~] **within whose boundaries a flood disaster has occurred** may elect to issue tax anticipation notes following a public meeting **held during or within three hundred sixty-five days of the end of such flood disaster** for which notice has been given of at least two weeks in a newspaper meeting the requirements of subsection 2 of section 246.090[,] and after vote of the landowners of the district. Notwithstanding the provisions of subsection 2 of section 246.090 to the contrary, the board may issue the notes following a vote of at least two-thirds of the votes cast by landowners present at the public meeting in favor of issuing the notes. The notes may be issued by the board

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

18 bearing an interest rate not to exceed six percent per annum, which shall be payable from one to  
19 not more than four years from the date of issuance.

20 3. In addition to the procedures provided in subsections 1 and 2 of this section, the board  
21 of supervisors of any levee or drainage district [~~in a county in this state which has been declared~~  
22 ~~a disaster area by declaration of the President of the United States during 1993 or 1995,~~] **within**  
23 **whose boundaries a flood disaster has occurred** may, upon a vote of the majority of the  
24 members of the board at a public meeting **held during or within three hundred sixty-five days**  
25 **of the end of such flood disaster** of which public notice has been given of at least two weeks,  
26 borrow funds for the use of the district and may issue negotiable notes in evidence thereof,  
27 payable out of anticipated revenues to be derived from assessments, benefits, or other levee or  
28 drainage district revenues, for any year or immediately following year in which the notes are  
29 issued. The notes may be issued at any time and from time to time[,] and shall be issued  
30 according to law unless otherwise provided in this section. Notes issued pursuant to this  
31 subsection shall be issued by the board bearing an interest rate not to exceed six percent per  
32 annum, which shall be payable from one year from the date of issuance. A separate note shall  
33 be issued to evidence the borrowing for the benefit of the district and, if applicable, any funds  
34 of the district. All revenues raised by levee districts or drainage districts shall not be considered  
35 as taxes pursuant to the laws of this state.

36 4. Notwithstanding the provisions of section 246.080 or other statutory provisions  
37 regarding the issuance of tax anticipation notes to the contrary, the aggregate outstanding  
38 principal amount of the notes issued under the provisions of subsection 2 or 3 of this section in  
39 any period subject to this section for the use of the levee or drainage district may be up to but  
40 shall not exceed the amount necessary **for emergency protective measures and** to repair levees  
41 damaged by a [~~natural~~] **flood** disaster that occurred [~~in 1993 or 1995,~~] **within the preceding five**  
42 **years** including, but not limited to, the amount necessary to secure federal matching funds for  
43 the levee or drainage district. No amount of tax anticipation notes issued by a levee or drainage  
44 district shall be included in any debt ceiling computation required by current law except that the  
45 district [~~may~~] **shall** not issue more than the amount necessary **for emergency protective**  
46 **measures and** to repair levees damaged by a [~~natural~~] **flood** disaster that occurred [~~in 1993 or~~  
47 ~~1995,~~] **within the preceding five years** including, but not limited to, the amount necessary to  
48 secure federal matching funds for the levee or drainage district.

49 5. The clerk or secretary of the board, or if none, the presiding officer of the board, shall  
50 certify on the back of each note that the note is issued pursuant to authority granted in this  
51 section[,] and list the aggregate principal amount of all prior notes issued against the district  
52 which are unpaid at the date of the note's issuance.

53 6. [~~Authority to issue notes pursuant to subsection 2 or 3 of this section shall terminate~~  
54 ~~January 1, 1998]~~ **For the purposes of this section, the term "flood disaster" means any of**  
55 **the following:**

56 (1) **Reaching flood stage designation, as defined or otherwise determined by the**  
57 **United States Geological Survey;**

58 (2) **Determination of an emergency under the Flood Control and Coastal**  
59 **Emergencies Act, 33 U.S.C. Section 701n; or**

60 (3) **Declaration of a major disaster under the Robert T. Stafford Disaster Relief and**  
61 **Emergency Assistance Act, 42 U.S.C. Section 5121, et seq., as amended.**

246.160. 1. The board of supervisors of any drainage or levee district heretofore  
2 organized or that may be hereafter organized in any circuit court or the county commission of  
3 any drainage or levee district heretofore organized or that may be hereafter organized in any  
4 county commission of this state, whether said original district has been reorganized in whole or  
5 in part, or whether said district in whole or in part has elected to be reorganized under sections  
6 242.010 to 242.690, or the board of directors of any district organized or reorganized under  
7 sections 245.285 to 245.545, whenever in the judgment of such board or court or county  
8 commission, as the case may be, it is advisable and for the best interest of the landowners of any  
9 such district, may, unless a majority of the owners owning a majority of the acres of land within  
10 said district shall, at the hearing herein provided for, object to said proceedings, from time to  
11 time as may be necessary, to refund all or any part of its bond indebtedness by taking up and  
12 exchanging such of its outstanding bonds as the holders thereof may be willing to surrender, and  
13 issue in lieu thereof new bonds of such district payable at such longer time, not exceeding forty  
14 years from their date, as such district may determine and the holders of the outstanding bonds  
15 are willing to accept.

16 2. [~~Such refunding bonds shall not exceed in the aggregate the amount of bonds refunded~~  
17 ~~thereby and they shall bear interest at a rate not exceeding the same rate as the bonds refunded,~~  
18 ~~which interest shall be payable semiannually and said refunding bonds when issued may be~~  
19 ~~exchanged for the outstanding bonds, if the holders thereof so agree, or said refunding bonds may~~  
20 ~~be sold for not less than ninety-five cents on the dollar and accrued interest, and the proceeds of~~  
21 ~~the sale of said bonds shall be used solely in the payment of the outstanding bonds and the cost,~~  
22 ~~expense and discount incident to the issuing of such refunding bonds.] **In no such case shall**  
23 **such refunding bonds exceed the amount determined by the board of supervisors to be**  
24 **necessary to pay or provide for the payment of the principal of the outstanding bonds to**  
25 **be refunded, together with:**~~

26 (1) **The interest accrued thereon to the date of such refunding bonds;**

27           **(2) The interest to accrue thereon to the date of maturity or redemption of such**  
 28 **bonds to be refunded;**

29           **(3) Any premium, which may be due under the terms of such bonds, to be**  
 30 **refunded; and**

31           **(4) Any amounts necessary for the payment of costs and expenses related to issuing**  
 32 **such refunding bonds and to fund a debt service reserve fund for the bonds.**

33

34 **All such refunding bonds shall bear interest at such rates as the board of supervisors shall**  
 35 **provide, which rates of interest may exceed the rates of interest on the bonds being**  
 36 **refunded but shall not exceed the maximum legal rate established by section 108.170. The**  
 37 **interest on such refunding bonds shall be payable semiannually. Such refunding bonds,**  
 38 **when issued, may be exchanged for the outstanding bonds if the holders thereof so agree,**  
 39 **or such refunding bonds may be sold for not less than ninety-five cents on the dollar plus**  
 40 **accrued interest. The proceeds of the sale of such refunding bonds shall be used solely in**  
 41 **the payment or redemption of the outstanding bonds, the cost expense and discount**  
 42 **incident to the issuance of the refunding bonds, and to fund a debt service reserve fund.**

43           3. In the event refunding bonds are issued, any landowner shall have the right at any time  
 44 within two weeks after the order providing for their issue is made in which to pay the full amount  
 45 of uncollected principal tax or assessment chargeable to his land for the payment of bonds  
 46 proposed to be refunded and his lands shall thereby be released from the tax or assessment for  
 47 the payment of the refunding bonds[;] but shall remain subject to additional taxes, if any, that  
 48 may be levied by such district pursuant to law. Unless and until refunding bonds shall have been  
 49 authorized and issued, the rate of tax or assessment or amount of assessment applicable to the  
 50 bonds to be refunded shall not be reduced.

51           4. Notice shall be given by such board or court or county commission to the landowners,  
 52 persons, and corporations owning any interest in any lands or other property assessed in said  
 53 district of its intention to refund said bonds by inserting a notice in a weekly newspaper  
 54 published in each county in which the lands in said district may lie; there shall be two insertions  
 55 of said notice in said weekly paper or papers, the last insertion to be not less than five days prior  
 56 to the hearing; such hearing to be held before such board or court or county commission, as the  
 57 case may be, at such convenient place as may be designated by such board or court or county  
 58 commission.

59           5. The notice to all parties interested will be sufficient if substantially in the following  
 60 form:

61           All persons or corporations interested in lands or other property lying in \_\_\_\_\_  
 62           district, take notice.

63 That \_\_\_\_\_ district desires to refund all or part of its outstanding bonded  
 64 indebtedness and that at \_\_\_\_\_ in the city of \_\_\_\_\_ on the \_\_\_\_\_ day of  
 65 \_\_\_\_\_, 20\_\_\_\_\_, any landowner or other person or corporation having an  
 66 interest in any land or property in said district may appear before the board of  
 67 trustees (or supervisors or directors, as the case may be) of said district (or before  
 68 the county commission of \_\_\_\_\_ County, as the case may be), and show any  
 69 cause why said refunding should not be done, and you are further notified that if  
 70 a majority of the owners owning a majority of the acres of land in said district  
 71 object to such refunding, the said refunding shall be abandoned. You will further  
 72 take notice that unless such refunding shall be abandoned, any landowner will  
 73 have the right at any time within two weeks after the making of the order  
 74 providing for the issuing of refunding bonds by said board or court or  
 75 commission, if any such order be made within which to pay the full amount of  
 76 uncollected principal tax or assessment chargeable to his land or any tract thereof  
 77 for the payment of bonds proposed to be refunded, and any tract on which such  
 78 tax or assessment shall be paid will be released from any tax or assessment for  
 79 the payment of such refunding bonds, but shall remain subject to additional taxes,  
 80 if any, that may be levied by such district pursuant to law. Of which you will take  
 81 due notice and govern yourselves accordingly.

82 \_\_\_\_\_  
 83 \_\_\_\_\_

84 6. When the bonds of any such district are refunded pursuant to the authority hereby  
 85 conferred, the collection of the corresponding installment of taxes or assessments for the  
 86 payment of the original bonds shall be deferred for a like period. It shall be the duty of the  
 87 district issuing such refunding bonds to make proper provisions for their payment in like manner  
 88 as is required in the case of the issuance of original bonds by the act under which such district  
 89 is or shall be incorporated, and the holder of such refunding bonds shall have the same rights as  
 90 are given the holders of bonds under the act or acts under which such districts are respectively  
 91 incorporated. Any landowner failing to avail himself of the privilege conferred by this section  
 92 of paying in full the unpaid principal tax or assessment against his **or her** land shall not be heard  
 93 to complain by reason of additional interest to be collected from his lands by reason of the  
 94 extension of the bonds. Taxes or assessments levied for the payment of refunding bonds shall  
 95 be secured by the same lien as other taxes of such district.

96 7. No proceedings shall be required for the issuance of refunding bonds other than those  
 97 provided by this section, and all powers necessary to be exercised by such district in order to  
 98 carry out the provisions of this section are hereby conferred upon such districts. The powers

99 conferred by this section may be exercised by any drainage or levee district heretofore or  
100 hereafter organized under any law in this state and shall apply to bonds of such districts whether  
101 heretofore or hereafter issued; provided further, that in the event any district shall avail itself of  
102 the provisions of this section and desires to issue refunding bonds extending beyond the charter  
103 life of said district, the issuing of said bonds shall automatically extend the charter life of such  
104 district for a period of twenty years beyond the date of the last maturing refunding bond so  
105 issued.

✓