

SECOND REGULAR SESSION

# SENATE BILL NO. 975

100TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR WALLINGFORD.

Read 1st time February 4, 2020, and ordered printed.

ADRIANE D. CROUSE, Secretary.

5254S.011

## AN ACT

To repeal sections 204.602 and 204.652, RSMo, and to enact in lieu thereof two new sections relating to utility districts.

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

Section A. Sections 204.602 and 204.652, RSMo, are repealed and two new  
2 sections enacted in lieu thereof, to be known as sections 204.602 and 204.652, to  
3 read as follows:

204.602. 1. Proceedings for the new formation of a reorganized common  
2 sewer district under sections 204.600 to 204.640 shall be substantially as follows:  
3 a petition in duplicate describing the proposed boundaries of the reorganized  
4 district sought to be formed, accompanied by a plat of the proposed district, shall  
5 first be filed with each county commission having jurisdiction in the geographic  
6 area the proposed district is situated. Such petition shall be ruled on by each  
7 county commission having jurisdiction within thirty days from the date of hearing  
8 the petition. If the petition for the reorganized district is rejected by any county  
9 commission having jurisdiction, no further action on the proposed district shall  
10 take place before the county commission which rejected the petition or the circuit  
11 court of that county in the county which rejected the petition. If approved by  
12 each county commission having jurisdiction, a petition in duplicate describing the  
13 proposed boundaries of the reorganized district sought to be formed, accompanied  
14 by a plat of the proposed district, shall be filed with the clerk of the circuit court  
15 of the county wherein the proposed district is situated or with the clerk of the  
16 circuit court of the county having the largest acreage proposed to be included in  
17 the proposed district, in the event that the proposed district embraces lands in  
18 more than one county. Such petition, in addition to such boundary description,

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

19 shall set forth an estimate of the number of customers of the proposed district,  
20 the necessity for the formation of the district, the probable cost of acquiring or  
21 constructing sanitary sewer improvements with the district, if appropriate, an  
22 approximation of the assessed valuation of taxable property within the district,  
23 whether the board of trustees shall be elected or appointed by the county  
24 commission, and such other information as may be useful to the court in  
25 determining whether or not the petition should be granted and a decree of  
26 incorporation entered. Such petition shall be accompanied by a cash deposit of  
27 fifty dollars as an advancement of the costs of the proceeding. The petition shall  
28 be signed by not less than fifty voters or property owners within the proposed  
29 district and shall request the incorporation of the territory therein described into  
30 a reorganized common sewer district. The petition shall be verified by at least  
31 one of the signers.

32         2. Upon filing, the petition shall be presented to the circuit court, and  
33 such court shall fix a date for a hearing on such petition, as provided in this  
34 section. The clerk of the court shall give notice of the petition filing in some  
35 newspaper of general circulation in the county in which the proceedings are  
36 pending. If the district extends into any other county, such notice also shall be  
37 published in some newspaper of general circulation in such other county. The  
38 notice shall contain a description of the proposed boundary lines of the district  
39 and the general purposes of the petition. The notice shall set forth the date fixed  
40 for the hearing on the petition, which shall not be less than fifteen nor more than  
41 twenty-one days after the date of the last publication of the notice, and shall be  
42 on some regular judicial day of the court that the petition is pending. Such notice  
43 shall be signed by the clerk of the circuit court and shall be published in three  
44 successive issues of a weekly newspaper or in a daily paper once a week for three  
45 consecutive weeks.

46         3. The court, for good cause shown, may continue the case or the hearing  
47 from time to time until final disposition.

48         4. Exceptions to the formation of a district, or to the boundaries outlined  
49 in the petition for incorporation, may be made by any voter or property owner  
50 within the proposed districts, provided that such exceptions are filed not less  
51 than five days prior to the date set for the hearing on the petition. Such  
52 exceptions shall specify the grounds upon which the exceptions are being made.  
53 If any such exceptions are filed, the court shall take them into consideration in  
54 passing upon the petition and also shall consider the evidence in support of the

55 petition and in support of the exceptions made. Should the court find that the  
56 petition should be granted but that changes should be made in the boundary  
57 lines, it shall make such changes in the boundary lines as set forth in the petition  
58 as the court may deem proper and enter its decree of incorporation, with such  
59 boundaries as changed. No public sewer district shall be formed under this  
60 chapter, chapter 249, section 247.035, or any sewer district created and organized  
61 under constitutional authority, the boundaries of which shall encroach upon the  
62 corporate boundaries of any sewer district then existing or upon the certificated  
63 boundaries then existing of any sewer corporation providing service under a  
64 certificate of convenience and necessity granted by the public service  
65 commission. Nor shall any public sewer district extend wastewater collection and  
66 treatment services within the boundaries of another district without a written  
67 cooperative agreement between such districts or within the certificated  
68 boundaries then existing of any sewer corporation providing service under a  
69 certificate of convenience and necessity granted by the public service commission  
70 without a written cooperative agreement between the public sewer district and  
71 the certificated sewer corporation.

72         5. Should the court find that it would not be in the public interest to form  
73 such a district, the petition shall be dismissed at the cost of the petitioners. If  
74 the court should find in favor of the formation of such district, the court shall  
75 enter its decree of incorporation, setting forth the boundaries of the proposed  
76 district as determined by the court under the hearing. The decree shall further  
77 contain an appointment of five voters from the district to constitute the first  
78 board of trustees of the district. The court shall designate such trustees to  
79 staggered terms from one to five years such that one director is appointed or  
80 elected each year. The trustees appointed by the court shall serve for the terms  
81 designated and until their successors have been appointed or elected as provided  
82 in section 204.610. The decree shall further designate the name of the district  
83 by which it shall officially be known.

84         6. The decree of incorporation shall not become final and conclusive until  
85 it is submitted to the voters residing within the boundaries described in such  
86 decree and until it is assented to by a majority of the voters as provided in  
87 subsection 9 of this section or by two-thirds of the voters of the district voting on  
88 the proposition. The decree shall provide for the submission of the question and  
89 shall fix the date of submission. The returns shall be certified by the election  
90 authority to the circuit court having jurisdiction in the case, and the court shall

91 enter its order canvassing the returns and declaring the result of such election.

92           7. If a majority of the voters of the district voting on such proposition  
93 approve of the proposition, then the court shall, in such order declaring the result  
94 of the election, enter a further order declaring the decree of incorporation to be  
95 final and conclusive. In the event, however, that the court should find that the  
96 question had not been assented to by the majority required in this section, the  
97 court shall enter a further order declaring such decree of incorporation to be void.  
98 No appeal shall be permitted from any such decree of incorporation nor from any  
99 of the aforesaid orders. In the event that the court declares the decree of  
100 incorporation to be final, the clerk of the circuit court shall file certified copies of  
101 such decree of incorporation and of such final order with the secretary of state of  
102 the state of Missouri, with the recorder of deeds of the county or counties in  
103 which the district is situated, and with the clerk of the county commission of the  
104 county or counties in which the district is situated.

105           8. The costs incurred in the formation of the district shall be taxed to the  
106 district, if the district is incorporated; otherwise the costs shall be paid by the  
107 petitioners.

108           9. If petitioners seeking formation of a reorganized common sewer district  
109 specify in their petition that the district to be organized shall be organized  
110 without authority to issue general obligation bonds, then the decree relating to  
111 the formation of the district shall recite that the district shall not have authority  
112 to issue general obligation bonds. The vote required for such a decree of  
113 incorporation to become final and conclusive shall be a simple majority of the  
114 voters of the district.

115           10. Once a reorganized sewer district is established, the boundaries of the  
116 reorganized sewer district may be extended or enlarged from time to time upon  
117 the filing, with the clerk of the circuit court having jurisdiction, of a petition by  
118 either:

119           (1) The board of trustees of the reorganized sewer district and five or more  
120 voters or landowners within the territory proposed to be added to the district; or

121           (2) The board of trustees and a majority of the landowners within the  
122 territory that is proposed to be added to the reorganized sewer district.

123 If the petition is filed by a majority of the voters or landowners within the  
124 territory proposed to be added to the reorganized sewer district, the publication  
125 of notice shall not be required, provided notice is posted in three public places  
126 within such territory at least seven days before the date of the hearing, and

127 provided that there is sworn testimony by at least five landowners in such  
128 territory, or a majority of the landowners if the total landowners in the area are  
129 fewer than ten. Otherwise the procedures for notice substantially shall follow the  
130 procedures in subsection 2 of this section for formation. Territory proposed to be  
131 added to the reorganized sewer district may be either contiguous or reasonably  
132 close to the boundaries of the existing district, provided that it shall not include  
133 any territory within the corporate boundaries of any sewer district then existing  
134 or within the certificated boundaries then existing of any sewer corporation  
135 providing service under a certificate of convenience and necessity granted by the  
136 public service commission. Upon the entry of a final judgment declaring the  
137 court's decree of territory proposed to be added to the reorganized sewer district  
138 to be final and conclusive, the court shall modify or rearrange the boundary lines  
139 of the reorganized sewer district as may be necessary or advisable. The costs  
140 incurred in the enlargement or extension of the district shall be taxed to the  
141 district, if the district is enlarged or extended. Otherwise, such costs shall be  
142 paid by the petitioners. However, no costs shall be taxed to the trustees of the  
143 district.

144         11. Should any landowner who owns real estate that is not within the  
145 certificated boundaries of any sewer corporation providing service under a  
146 certificate of convenience and necessity granted by the public service commission  
147 or within another sewer district organized under this chapter or chapters 247 or  
148 249 or under the Missouri Constitution, but that is contiguous or reasonably close  
149 to the existing boundaries of the reorganized sewer district, desire to have such  
150 real estate incorporated in the district, the landowner shall first petition the  
151 board of trustees for its approval. If such approval is granted, the secretary of  
152 the board shall endorse a certificate of the board's approval of the petition. The  
153 petition so endorsed shall be filed with the clerk of the circuit court in which the  
154 reorganized sewer district is incorporated. It then shall be the duty of the court  
155 to amend the boundaries of such district by a decree incorporating the real estate.  
156 A certified copy of this amended decree including the real estate in the district  
157 then shall be filed in the office of the recorder, in the office of the county clerk of  
158 the county in which the real estate is located, and in the office of the secretary  
159 of state. The costs of this proceeding shall be borne by the petitioning property  
160 owner.

161         12. The board of trustees of any reorganized common sewer district may  
162 petition the circuit court of the county containing the majority of the acreage in

163 the district for an amended decree of incorporation to allow that district to engage  
164 in the construction, maintenance, and operation of water supply and distribution  
165 facilities [that serve ten or more separate properties located wholly within the  
166 district, are] **in an area** not served by another political subdivision[, or are not  
167 located] within the certificated area of a water corporation, as defined in chapter  
168 386, or within a public water supply district, as defined in chapter 247[, and the  
169 operation and maintenance of all such existing water supply facilities]. The  
170 petition shall be filed by the board of trustees, and all proceedings shall be in  
171 substantially the same manner as in action for initial formation of a reorganized  
172 common sewer district, except that no vote of the residents of the district shall  
173 be required. All applicable provisions of this chapter shall apply to the  
174 construction, operation, and maintenance of water supply facilities in the same  
175 manner as they apply to like functions relating to sewer treatment facilities.

176 **13. (1) The board of trustees of a reorganized common sewer**  
177 **district and the board of directors of a public water supply district**  
178 **organized under chapter 247 may jointly petition the circuit court of**  
179 **the county containing the majority of the acreage of the two districts**  
180 **to amend the decrees of incorporation to allow the districts to**  
181 **consolidate the public water supply district into the reorganized**  
182 **common sewer district. The petition shall include a plan of**  
183 **consolidation.**

184 **(2) All proceedings shall be conducted in the same manner as in**  
185 **an action for the formation of a reorganized common sewer district.**

186 **(3) All applicable provisions of this chapter shall apply to the**  
187 **construction, operation, and maintenance of a water supply facility that**  
188 **is consolidated into a reorganized common sewer treatment district in**  
189 **the same manner such provisions apply to similar functions of sewer**  
190 **treatment facilities.**

204.652. As an alternative to all other methods provided by law or  
2 charter, the governing body of any sewer district or reorganized sewer district  
3 organized and operated under this chapter or chapter 249 or **of** any metropolitan  
4 sewer district organized under the Constitution of [this state,] **Missouri** may  
5 make, [or] cause to be made, **or provide** improvements [that confer a benefit  
6 upon property] **and service** within a sanitary sewer improvement area under  
7 sections 204.650 to 204.672. The governing body of such district may issue  
8 temporary notes and revenue bonds under sections 204.650 to 204.672 to pay for

9 all or part of the cost of such improvements **and service**. An improvement may  
10 be combined with one or more other improvements for the purpose of issuing a  
11 single series of revenue bonds to pay all or part of the cost of the sanitary sewer  
12 improvement area's improvements, but separate funds or accounts shall be  
13 established within the records of the district for each improvement project as  
14 provided in sections 204.650 to 204.672. **[Such] In addition to any other fees**  
15 **or charges imposed by the district to provide services or pay debt, the**  
16 **district [shall] may** make assessments and may impose user fees on the property  
17 located within the sanitary sewer improvement area[, in addition to any other  
18 fees or charges imposed by the district to provide services or pay debt. The  
19 district shall use the moneys collected from such assessments and user fees from  
20 a sanitary sewer improvement area to reimburse the district for all amounts paid  
21 or to be paid by it as principal of and interest on its temporary notes and revenue  
22 bonds issued for the improvements made in the sanitary sewer improvement  
23 area] **to pay for all or part of the costs of improvements and service**  
24 **including, but not limited to, the cost of any principal of or interest on**  
25 **temporary notes and revenue bonds.**

Bill ✓

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