

HB 1711 -- ACTIONS AGAINST CERTAIN SEWER DISTRICTS

SPONSOR: Colona

This bill prohibits an action for damages alleging obstruction, disrepair, defect, inadequacy, nuisance, or taking related to the condition and operation of sewer facilities owned and operated by a sewer district established under Chapter 249, RSMo, or under the Missouri Constitution except as follows:

(1) The person claiming the damage must provide written notice to the district board of trustees within 90 days of the occurrence, specifying the date and place where the damages were sustained, the type of damages, and the intent to claim damages against the sewer district;

(2) The action must be filed within three years of the occurrence, unless the claim is for alleged negligent, defective, or dangerous design and construction of the sewer facilities, whether in tort or inverse condemnation, in which case the action must be filed within ten years of the design and construction of the sewer facilities;

(3) To prevail on a claim in tort or inverse condemnation for the alleged negligent, defective, or dangerous design and construction of the sewer facilities a plaintiff must prove by a preponderance of the evidence that the facilities did not substantially comply with sewer facility design standards generally accepted at the time the facility was designed and constructed; and

(4) To prevail on a claim in tort or inverse condemnation for the alleged failure to maintain, repair, or operate sewer facilities a plaintiff must plead and prove by a preponderance of the evidence that an affirmative act by the sewer district caused the damages.

In an action for inverse condemnation against a sewer district it will be a complete defense to such action if, prior to the occurrence giving rise to the damages, the sewer district offered the plaintiff or the plaintiff's predecessor in interest the means or mechanism necessary to correct the alleged defect and the offer was refused.

The bill specifies, in an action for inverse condemnation against a sewer district, how the plaintiff must prove damages suffered as a result of a permanent taking, a temporary taking, or damages to personal property.

In an action under this section where a plaintiff alleges he or she was damaged by a failure to repair, replace, maintain, or operate a sewer facility, the sewer district will be immune from liability if

the sewer district is required under the terms of a consent decree with the United States Department of Justice to repair or replace the sewer facility, unless at the time of the occurrence, there was a final finding by the United States Environmental Protection Agency or a court of competent jurisdiction that the sewer district violated the consent decree with respect to the sewer facility.