

FIRST REGULAR SESSION

# HOUSE BILL NO. 648

## 101ST GENERAL ASSEMBLY

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INTRODUCED BY REPRESENTATIVE SHAUL.

1473H.011

DANA RADEMAN MILLER, Chief Clerk

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### AN ACT

To repeal section 204.602, RSMo, and to enact in lieu thereof one new section relating to utility districts.

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

Section A. Section 204.602, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 204.602, to read as follows:

204.602. 1. Proceedings for the new formation of a reorganized common sewer district under sections 204.600 to 204.640 shall be substantially as follows: a petition in duplicate describing the proposed boundaries of the reorganized district sought to be formed, accompanied by a plat of the proposed district, shall first be filed with each county commission having jurisdiction in the geographic area the proposed district is situated. Such petition shall be ruled on by each county commission having jurisdiction within thirty days from the date of hearing the petition. If the petition for the reorganized district is rejected by any county commission having jurisdiction, no further action on the proposed district shall take place before the county commission which rejected the petition or the circuit court of that county in the county which rejected the petition. If approved by each county commission having jurisdiction, a petition in duplicate describing the proposed boundaries of the reorganized 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 situated 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 acquiring or

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

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

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

40         4. Exceptions to the formation of a district, or to the boundaries outlined in the petition  
41 for incorporation, may be made by any voter or property owner within the proposed districts,  
42 provided that such exceptions are filed not less than five days prior to the date set for the hearing  
43 on the petition. Such exceptions shall specify the grounds upon which the exceptions are being  
44 made. If any such exceptions are filed, the court shall take them into consideration in passing  
45 upon the petition and also shall consider the evidence in support of the petition and in support  
46 of the exceptions made. Should the court find that the petition should be granted but that  
47 changes should be made in the boundary lines, it shall make such changes in the boundary lines  
48 as set forth in the petition as the court may deem proper and enter its decree of incorporation,  
49 with such boundaries as changed. No public sewer district shall be formed under this chapter,  
50 chapter 249, section 247.035, or any sewer district created and organized under constitutional  
51 authority, the boundaries of which shall encroach upon the corporate boundaries of any sewer  
52 district then existing or upon the certificated boundaries then existing of any sewer corporation  
53 providing service under a certificate of convenience and necessity granted by the public service

54 commission. Nor shall any public sewer district extend wastewater collection and treatment  
55 services within the boundaries of another district without a written cooperative agreement  
56 between such districts or within the certificated boundaries then existing of any sewer  
57 corporation providing service under a certificate of convenience and necessity granted by the  
58 public service commission without a written cooperative agreement between the public sewer  
59 district and the certificated sewer corporation.

60         5. Should the court find that it would not be in the public interest to form such a district,  
61 the petition shall be dismissed at the cost of the petitioners. If the court should find in favor of  
62 the formation of such district, the court shall enter its decree of incorporation, setting forth the  
63 boundaries of the proposed district as determined by the court under the hearing. The decree  
64 shall further contain an appointment of five voters from the district to constitute the first board  
65 of trustees of the district. The court shall designate such trustees to staggered terms from one  
66 to five years such that one director is appointed or elected each year. The trustees appointed by  
67 the court shall serve for the terms designated and until their successors have been appointed or  
68 elected as provided in section 204.610. The decree shall further designate the name of the  
69 district by which it shall officially be known.

70         6. The decree of incorporation shall not become final and conclusive until it is submitted  
71 to the voters residing within the boundaries described in such decree and until it is assented to  
72 by a majority of the voters as provided in subsection 9 of this section or by two-thirds of the  
73 voters of the district voting on the proposition. The decree shall provide for the submission of  
74 the question and shall fix the date of submission. The returns shall be certified by the election  
75 authority to the circuit court having jurisdiction in the case, and the court shall enter its order  
76 canvassing the returns and declaring the result of such election.

77         7. If a majority of the voters of the district voting on such proposition approve of the  
78 proposition, then the court shall, in such order declaring the result of the election, enter a further  
79 order declaring the decree of incorporation to be final and conclusive. In the event, however, that  
80 the court should find that the question had not been assented to by the majority required in this  
81 section, the court shall enter a further order declaring such decree of incorporation to be void.  
82 No appeal shall be permitted from any such decree of incorporation nor from any of the aforesaid  
83 orders. In the event that the court declares the decree of incorporation to be final, the clerk of  
84 the circuit court shall file certified copies of such decree of incorporation and of such final order  
85 with the secretary of state of the state of Missouri, with the recorder of deeds of the county or  
86 counties in which the district is situated, and with the clerk of the county commission of the  
87 county or counties in which the district is situated.

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

90           9. If petitioners seeking formation of a reorganized common sewer district specify in  
91 their petition that the district to be organized shall be organized without authority to issue general  
92 obligation bonds, then the decree relating to the formation of the district shall recite that the  
93 district shall not have authority to issue general obligation bonds. The vote required for such a  
94 decree of incorporation to become final and conclusive shall be a simple majority of the voters  
95 of the district.

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

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

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

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104 If the petition is filed by a majority of the voters or landowners within the territory proposed to  
105 be added to the reorganized sewer district, the publication of notice shall not be required,  
106 provided notice is posted in three public places within such territory at least seven days before  
107 the date of the hearing, and provided that there is sworn testimony by at least five landowners  
108 in such territory, or a majority of the landowners if the total landowners in the area are fewer than  
109 ten. Otherwise the procedures for notice substantially shall follow the procedures in subsection  
110 2 of this section for formation. Territory proposed to be added to the reorganized sewer district  
111 may be either contiguous or reasonably close to the boundaries of the existing district, provided  
112 that it shall not include any territory within the corporate boundaries of any sewer district then  
113 existing or within the certificated boundaries then existing of any sewer corporation providing  
114 service under a certificate of convenience and necessity granted by the public service  
115 commission. Upon the entry of a final judgment declaring the court's decree of territory  
116 proposed to be added to the reorganized sewer district to be final and conclusive, the court shall  
117 modify or rearrange the boundary lines of the reorganized sewer district as may be necessary or  
118 advisable. The costs incurred in the enlargement or extension of the district shall be taxed to the  
119 district, if the district is enlarged or extended. Otherwise, such costs shall be paid by the  
120 petitioners. However, no costs shall be taxed to the trustees of the district.

121           11. Should any landowner who owns real estate that is not within the certificated  
122 boundaries of any sewer corporation providing service under a certificate of convenience and  
123 necessity granted by the public service commission or within another sewer district organized  
124 under this chapter or chapters 247 or 249 or under the Missouri Constitution, but that is  
125 contiguous or reasonably close to the existing boundaries of the reorganized sewer district, desire

126 to have such real estate incorporated in the district, the landowner shall first petition the board  
127 of trustees for its approval. If such approval is granted, the secretary of the board shall endorse  
128 a certificate of the board's approval of the petition. The petition so endorsed shall be filed with  
129 the clerk of the circuit court in which the reorganized sewer district is incorporated. It then shall  
130 be the duty of the court to amend the boundaries of such district by a decree incorporating the  
131 real estate. A certified copy of this amended decree including the real estate in the district then  
132 shall be filed in the office of the recorder, in the office of the county clerk of the county in which  
133 the real estate is located, and in the office of the secretary of state. The costs of this proceeding  
134 shall be borne by the petitioning property owner.

135         12. The board of trustees of any reorganized common sewer district may petition the  
136 circuit court of the county containing the majority of the acreage in the district for an amended  
137 decree of incorporation to allow that district to engage in the construction, maintenance, and  
138 operation of water supply and distribution facilities [~~that serve ten or more separate properties~~  
139 ~~located wholly within the district, are]~~ **in an area** not served by another political subdivision, [~~or~~  
140 ~~are not located]~~ within the certificated area of a water corporation as defined in chapter 386, or  
141 within a public water supply district as defined in chapter 247[, ~~and the operation and~~  
142 ~~maintenance of all such existing water supply facilities].~~ The petition shall be filed by the board  
143 of trustees, and all proceedings shall be in substantially the same manner as in action for initial  
144 formation of a reorganized common sewer district, except that no vote of the residents of the  
145 district shall be required. All applicable provisions of this chapter shall apply to the construction,  
146 operation, and maintenance of water supply facilities in the same manner as they apply to like  
147 functions relating to sewer treatment facilities.

148         **13. Notwithstanding the provisions of subsection 12 of this section to the contrary,**  
149 **when the board of trustees of a reorganized common sewer district and the governing body**  
150 **of a public water supply district as defined in chapter 247 mutually determine that a**  
151 **consolidation of their sewer and water operations would better serve the area within their**  
152 **boundaries, the board of trustees of the reorganized common sewer district shall petition**  
153 **the circuit court of the county containing the majority of the consolidated service territory**  
154 **to amend the decree of incorporation to allow the district to consolidate the public water**  
155 **supply district into the reorganized common sewer district. The petition shall include a**  
156 **plan of consolidation and shall be filed by the board of trustees, and all proceedings shall**  
157 **be conducted in the same manner as in an action for the initial formation of the**  
158 **reorganized common sewer district, except that no vote of the residents of the district shall**  
159 **be required. All applicable provisions of this chapter shall apply to the construction,**  
160 **operation, and maintenance of water supply facilities in the same manner as they apply to**  
161 **like functions relating to sewer treatment facilities.**