

HOUSE SUBSTITUTE
FOR
HOUSE COMMITTEE SUBSTITUTE
FOR
HOUSE BILL NO. 1650

1 AN ACT

2 To repeal sections 247.040 and 393.705, RSMo,
3 and to enact in lieu thereof six new sections
4 relating to water resources.

5

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF MISSOURI,
6 AS FOLLOWS:

7 Section A. Sections 247.040 and 393.705, RSMo, are repealed
8 and six new sections enacted in lieu thereof, to be known as
9 sections 247.040, 278.258, 393.705, 644.578, 644.579, and
10 644.580, to read as follows:

11 247.040. 1. Proceedings for the formation of a public
12 water supply district shall be substantially as follows: a
13 petition in duplicate describing the proposed boundaries of the
14 district sought to be formed, accompanied by a plat of the
15 proposed district, shall be filed with the clerk of the circuit
16 court of the county wherein the proposed district is situate, or
17 with the clerk of the circuit court of the county having the
18 largest acreage proposed to be included in the proposed district,
19 in the event that the proposed district embraces lands in more
20 than one county. Such petition, in addition to such boundary

1 description, shall set forth an estimate of the number of
2 customers of the proposed district, the necessity for the
3 formation of the district, the probable cost of the improvement,
4 an approximation of the assessed valuation of taxable property
5 within the district and such other information as may be useful
6 to the court in determining whether [or not] the petition should
7 be granted and a decree of incorporation entered. Such petition
8 shall be accompanied by a cash deposit of fifty dollars as an
9 advancement of the costs of the proceeding, and the petition
10 shall be signed by either two-thirds of the registered voters
11 located within the boundaries of the proposed district, or by not
12 less than fifty voters within the proposed district and shall
13 pray for the incorporation of the territory therein described
14 into a public water supply district. The petition shall be
15 verified by at least one of the signers thereof.

16 2. Upon the filing of the petition, the same shall be
17 presented to the circuit court, and such court shall fix a date
18 for a hearing on such petition, as herein provided for.
19 Thereupon the clerk of the court shall give notice of the filing
20 of the petition in some newspaper of general circulation in the
21 county in which the proceedings are pending, and if the district
22 extends into any other county or counties, such notice shall also
23 be published in some newspaper of general circulation in such
24 other county or counties. The notice shall contain a description
25 of the proposed boundary lines of the district and the general
26 purposes of the petition, and shall set forth the date fixed for

1 the hearing on the petition, which shall not be less than fifteen
2 nor more than twenty-one days after the date of the last
3 publication of the notice and shall be on some regular judicial
4 day of the court wherein the petition is pending. Such notice
5 shall be signed by the clerk of the circuit court and shall be
6 published in three successive issues of a weekly newspaper or [in
7 twenty successive issues of] once a week for three successive
8 weeks in a daily newspaper. As an alternative to newspaper
9 publication of the notice, the petitioners may direct the clerk
10 of the court to give notice of the filing of the petition by
11 certified mail to the owners of record of all real property
12 located within the proposed boundaries of the district. The cost
13 of the certified notification shall be borne by the petitioners.

14 3. The court, for good cause shown, may continue the case
15 or the hearing thereon from time to time until final disposition
16 thereof.

17 4. Exceptions to the formation of a district, or to the
18 boundaries outlined in the petition for the incorporation
19 thereof, may be made by any voter of the proposed district;
20 provided, such exceptions are filed not less than five days prior
21 to the date set for the hearing on the petition. Such exceptions
22 shall specify the grounds upon which the exceptions are being
23 made. If any such exceptions be filed, the court shall take them
24 into consideration in passing upon the petition and shall also
25 consider the evidence in support of the petition and in support
26 of the exceptions made. Should the court find that the petition

1 should be granted but that changes should be made in the boundary
2 lines, it shall make such changes in the boundary lines as set
3 forth in the petition as to the court may seem meet and proper,
4 and thereupon enter its decree of incorporation, with such
5 boundaries as changed.

6 5. Should the court find that it would not be to the public
7 interest to form such a district, the petition shall be dismissed
8 at the costs of the petitioners. If, however, the court should
9 find in favor of the formation of such district, the court shall
10 enter its decree of incorporation, setting forth the boundaries
11 of the proposed district as determined by the court pursuant to
12 the aforesaid hearing. The decree of incorporation shall also
13 divide the district into five subdistricts and shall fix their
14 boundary lines, all of which subdistricts shall have
15 approximately the same area and shall be numbered. The decree
16 shall further contain an appointment of one voter from each of
17 such subdistricts, to constitute the first board of directors of
18 the district. No two members of such board so appointed or
19 hereafter elected or appointed shall reside in the same
20 subdistrict, except as provided in section 247.060. If no
21 qualified person who lives in the subdistrict is willing to serve
22 on the board, the court may appoint, or the voters may elect, an
23 otherwise qualified person who lives in the district but not in
24 the subdistrict. The court shall designate two of such directors
25 so appointed to serve for a term of two years and one to serve
26 for a term of one year. [And] The directors thus appointed by

1 the court shall serve for the terms thus designated and until
2 their successors shall have been appointed or elected as herein
3 provided. The decree shall further designate the name and number
4 of the district by which it shall hereafter be officially known.

5 6. If the court shall find that the petition has been
6 signed by two-thirds of the registered voters located within the
7 boundaries of the proposed district, or by not less than fifty
8 voters within the proposed district, the decree of incorporation
9 shall become final and conclusive. If the court shall find that
10 the petition has been signed by less than two-thirds of the
11 registered voters located within the boundaries of the proposed
12 district, or by less than fifty voters within the proposed
13 district, then the decree of incorporation shall not become final
14 and conclusive until it shall have been submitted to the voters
15 residing within the boundaries described in such decree and until
16 it shall have been assented to by a majority of the voters as
17 provided in subsection 9 of this section or by two-thirds of the
18 voters of the district voting on the proposition. The decree
19 shall provide for the submission of the question and shall fix
20 the date thereof. The returns shall be certified by the judges
21 and clerks of election to the circuit court having jurisdiction
22 in the case and the court shall thereupon enter its order
23 canvassing the returns and declaring the result of such election.

24 7. If, upon canvass and declaration, it is found and
25 determined that the question shall have been assented to by a
26 majority of two-thirds of the voters of the district voting on

1 such proposition, then the court shall, in such order declaring
2 the result of the election, enter a further order declaring the
3 decree of incorporation to be final and conclusive. In the
4 event, however, that the court should find that the question had
5 not been assented to by the majority above required, the court
6 shall enter a further order declaring such decree of
7 incorporation to be void and of no effect. No appeal shall lie
8 from any such decree of incorporation nor from any of the
9 aforesaid orders. In the event that the court declares the
10 decree of incorporation to be final, as herein provided for, the
11 clerk of the circuit court shall file certified copies of such
12 decree of incorporation and of such final order with the
13 secretary of state of the state of Missouri, and with the
14 recorder of deeds of the county or counties in which the district
15 is situate and with the clerk of the county commission of the
16 county or counties in which the district is situate.

17 8. The costs incurred in the formation of the district
18 shall be taxed to the district, if the district [be] is
19 incorporated otherwise against the petitioners.

20 9. If petitioners seeking formation of a public water
21 supply district specify in their petition that the district to be
22 organized shall be organized without authority to issue general
23 obligation bonds, then the decrees relating to the formation of
24 the district shall recite that the district shall not have
25 authority to issue general obligation bonds and the vote required
26 for such a decree of incorporation to become final and conclusive

1 shall be a simple majority of the voters of the district voting
2 on such proposition.

3 278.258. 1. After a watershed subdistrict has been
4 organized and the organization tax pursuant to section 278.250
5 has been levied, any county in the subdistrict which has not
6 adopted the annual tax pursuant to section 278.250 may detach
7 from the subdistrict upon approval of such detachment of a
8 majority of the qualified voters residing within such subdistrict
9 in such county; however, before such detachment the watershed
10 district trustees shall make arrangements for the county to pay
11 any outstanding indebtedness for services or works of improvement
12 rendered by the subdistrict in such county.

13 2. Following the entry in the official minutes of the
14 trustees of the watershed district of the detachment of the
15 county, the watershed district trustees shall certify this fact
16 on a separate form, authentic copies of which shall be recorded
17 with the recorder of deeds in each county in which any portion of
18 the watershed subdistrict lies and with the state soil and water
19 districts commission.

20 393.705. As used in sections 393.700 to 393.770 and
21 sections 386.025, RSMo, and 393.295, the following terms shall,
22 unless the context clearly indicates otherwise, have the
23 following meanings:

24 (1) "Bond" or "bonds", any bonds, interim certificates,
25 notes, debentures or other obligations of a commission issued

1 pursuant to sections 393.700 to 393.770 and sections 386.025,
2 RSMo, and 393.295;

3 (2) "Commission", any joint municipal utility commission
4 established by a joint contract [under] pursuant to sections
5 393.700 to 393.770 and sections 386.025, RSMo, and 393.295;

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

13 (4) "Joint contract", the contract entered into among or by
14 and between two or more of the following contracting entities for
15 the purpose of establishing a commission:

16 (a) Municipalities;

17 (b) Public water supply districts;

18 (c) Public sewer districts;

19 [(d) Nonprofit water companies; or

20 (e) Nonprofit sewer companies;]

21 (5) "Person", a natural person, cooperative or private
22 corporation, association, firm, partnership, or business trust of
23 any nature whatsoever, organized and existing under the laws of
24 any state or of the United States and any municipality or other
25 municipal corporation, governmental unit, or public corporation
26 created under the laws of this state or the United States, and

1 any person, board, or other body declared by the laws of any
2 state or the United States to be a department, agency or
3 instrumentality thereof;

4 (6) "Project", the purchasing, construction, extending or
5 improving of any revenue-producing water, sewage, gas or electric
6 light works, heating or power plants, including all real and
7 personal property of any nature whatsoever to be used in
8 connection therewith, together with all parts thereof and
9 appurtenances thereto, used or useful in the generation,
10 production, transmission, distribution excluding retail sales,
11 purchase, sale, exchange, transport and treatment of sewage or
12 interchange of water, sewage, electric power and energy, or any
13 interest therein or right to capacity thereof and the acquisition
14 of fuel of any kind for any such purposes.

15 644.578. In addition to those sums authorized prior to
16 August 28, 2002, the board of fund commissioners of the state of
17 Missouri, as authorized by section 37(e) of article III of the
18 Constitution of the state of Missouri, may borrow on the credit
19 of this state the sum of ten million dollars in the manner
20 described, and for the purposes set out, in chapter 640, RSMo,
21 and this chapter.

22 644.579. In addition to those sums authorized prior to
23 August 28, 2002, the board of fund commissioners of the state of
24 Missouri, as authorized by section 37(g) of article III of the
25 Constitution of the state of Missouri, may borrow on the credit

1 of this state the sum of ten million dollars in the manner
2 described, and for the purposes set out, in chapter 640, RSMo,
3 and in this chapter.

4 644.580. In addition to those sums authorized prior to
5 August 28, 2002, the board of fund commissioners of the state of
6 Missouri, as authorized by section 37(h) of article III of the
7 Constitution of the state of Missouri, may borrow on the credit
8 of this state the sum of twenty million dollars in the manner
9 described, and for the purposes set out, in chapter 640, RSMo,
10 and in this chapter.