

SECOND REGULAR SESSION
[TRULY AGREED TO AND FINALLY PASSED]
SENATE COMMITTEE SUBSTITUTE FOR
HOUSE BILL NO. 1612
95TH GENERAL ASSEMBLY

4316S.02T

2010

AN ACT

To repeal sections 204.300, 204.472, 204.571, and 250.233, RSMo, and to enact in lieu thereof four new sections relating to sewer districts.

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

Section A. Sections 204.300, 204.472, 204.571, and 250.233, RSMo, are repealed and
2 four new sections enacted in lieu thereof, to be known as sections 204.300, 204.472, 204.571,
3 and 250.233, to read as follows:

204.300. 1. In all counties except counties of the first classification which have a charter
2 form of government and which contain all or any portion of a city with a population of three
3 hundred fifty thousand or more inhabitants, the governing body of the county, by resolution,
4 order, or ordinance, shall appoint five trustees, the majority of whom shall reside within the
5 boundaries of the district. In the event the district extends into any county bordering the county
6 in which the greater portion of the district lies, the presiding commissioner or other chief
7 executive officer of the adjoining county shall be an additional member of the appointed board
8 of trustees. The trustees may be paid reasonable compensation by the district for their services;
9 except that, any compensation schedule shall be approved by resolution of the board of trustees.
10 The board of trustees shall be responsible for the control and operation of the sewer district. The
11 term of each board member shall be five years; except that, members of the governing body of
12 the county sitting upon the board shall not serve beyond the expiration of their term as members
13 of such governing body of the county. The first board of trustees shall be appointed for terms
14 ranging from one to five years so as to establish one vacancy per year thereafter. **If the**
15 **governing body of the county with the right of appointment under this section fails to**
16 **appoint a trustee to fill a vacancy on the board within sixty days after receiving written**
17 **notice from the common sewer district of the existence of such vacancy, then the vacancy**

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 **may be filled by a majority of the remaining members then in office of the board of trustees**
19 **of such common sewer district.** The trustees may be paid reasonable compensation by the
20 district for their services; except that, any compensation schedule shall be approved by
21 resolution, order, or ordinance of the governing body of the county. Any and all expenses
22 incurred in the performance of their duties shall be reimbursed by the district. The board of
23 trustees shall have the power to employ and fix the compensation of such staff as may be
24 necessary to discharge the business and purposes of the district, including clerks, attorneys,
25 administrative assistants, and any other necessary personnel. The board of trustees shall select
26 a treasurer, who may be either a member of the board of trustees or another qualified individual.
27 The treasurer selected by the board shall give such bond as may be required by the board of
28 trustees. The board of trustees shall appoint the sewer engineer for the county in which the
29 greater part of the district lies as chief engineer for the district, and the sewer engineer shall have
30 the same powers, responsibilities and duties in regard to planning, construction and maintenance
31 of the sewers, and treatment facilities of the district as he now has by virtue of law in regard to
32 the sewer facilities within the county for which he is elected. If there is no sewer engineer in the
33 county in which the greater part of the district lies, the board of trustees may employ a registered
34 professional engineer as chief engineer for the district under such terms and conditions as may
35 be necessary to discharge the business and purposes of the district. The provisions of this
36 subsection shall not apply to any county of the first classification which has a charter form of
37 government and which contains all or any portion of a city with a population of three hundred
38 fifty thousand or more inhabitants.

39 2. In any county of the first classification which has a charter form of government and
40 which contains all or any portion of a city with a population of three hundred fifty thousand or
41 more inhabitants, and in any county of the first classification without a charter form of
42 government and which has a population of more than sixty-three thousand seven hundred but
43 less than seventy-five thousand, there shall be [an eight-member] **a ten-member** board of
44 trustees to consist of the county executive, the mayors of the [four] **five** cities constituting the
45 largest users by flow during the previous fiscal year, the mayors of [two] **three** cities which are
46 not among the [four] **five** largest users and who are members of the advisory board of the district
47 established pursuant to section 204.310, and one member of the county legislature to be
48 appointed by the county executive, with the concurrence of the county legislature. If the county
49 executive does not appoint such members of the county legislature to the board of trustees within
50 sixty days, the county legislature shall make the appointments. The advisory board members
51 shall be appointed annually by the advisory board. In the event the district extends into any
52 county bordering the county in which the greater portion of the district lies, the number of
53 members on the board of trustees shall be increased to a total of [nine] **eleven** and the presiding
54 commissioner or county executive of the adjoining county shall be an additional member of the

55 board of trustees. The trustees shall receive no compensation for their services, but may be
56 compensated for their reasonable expenses normally incurred in the performance of their duties.
57 The board of trustees may employ and fix the compensation of such staff as may be necessary
58 to discharge the business and purposes of the district, including clerks, attorneys, administrative
59 assistants, and any other necessary personnel. The board of trustees may employ and fix the
60 duties and compensation of an administrator for the district. The administrator shall be the chief
61 executive officer of the district subject to the supervision and direction of the board of trustees
62 and shall exercise the powers, responsibilities and duties heretofore exercised by the chief
63 engineer prior to September 28, 1983. The administrator of the district may, with the approval
64 of the board of trustees, retain consulting engineers for the district under such terms and
65 conditions as may be necessary to discharge the business and purposes of the district. The
66 provisions of this subsection shall only apply to counties of the first classification which have
67 a charter form of government and which contain all or any portion of a city with a population of
68 three hundred fifty thousand or more inhabitants.

204.472. 1. **(1)** Whenever all or any part of a territory located within a sewer district
2 that is located in any county of the third classification without a township form of government
3 and with more than forty thousand eight hundred but less than forty thousand nine hundred
4 inhabitants is included by annexation within the corporate limits of any city of the third
5 classification with more than sixteen thousand six hundred but less than sixteen thousand seven
6 hundred inhabitants, but is not receiving sewer service from such district or city at the time of
7 such annexation, the city and the board of trustees of the district may, within six months after
8 such annexation becomes effective, develop an agreement to provide sewer service to the
9 annexed territory. Such an agreement may also be developed for territory that was annexed
10 between January 1, 1996, and August 28, 2002, but was not receiving sewer service from such
11 district or such city on August 28, 2002. For the purposes of this section, "not receiving sewer
12 service" shall mean that no sewer services are being sold within the annexed territory by such
13 district or city. If the city and the board reach an agreement that detaches any territory from such
14 district, the agreement shall be submitted to the circuit court having jurisdiction over the major
15 portion, and the circuit court shall make an order and judgment detaching the territory described
16 in the agreement from the remainder of the district and stating the boundary lines of the district
17 after such detachment. At such time that the circuit court's order and judgment becomes final,
18 the clerk of the circuit court shall file certified copies of such order and judgment with the
19 secretary of state and with the recorder of deeds and the county clerk of the county or counties
20 in which the district is located. If an agreement is developed between a city and a sewer district
21 pursuant to this subsection, subsections 2 to 8 of this section shall not apply to such agreement.

22 **(2) Whenever all or any part of a territory located within a sewer district that is**
23 **located in any county of the third classification is included by annexation within the**
24 **corporate limits of any city, but is not receiving sewer service from such district or city at**

25 **the time of such annexation, the city and the board of trustees of the district may, within**
26 **six months after such annexation becomes effective, develop an agreement to provide sewer**
27 **service to the annexed territory. Such an agreement may also be developed for territory**
28 **that was annexed prior to August 28, 2010, but was not receiving sewer service from such**
29 **district or such city as of August 28, 2010. For the purposes of this section, "not receiving**
30 **sewer service" shall mean that no sewer services are being sold within the annexed**
31 **territory by such district or city. If the city and the board reach an agreement that**
32 **detaches any territory from such district, the agreement shall be submitted to the circuit**
33 **court having jurisdiction over the major portion, and the circuit court shall make an order**
34 **and judgment detaching the territory described in the agreement from the remainder of**
35 **the district and stating the boundary lines of the district after such detachment. At such**
36 **time that the circuit court's order and judgment becomes final, the clerk of the circuit**
37 **court shall file certified copies of such order and judgment with the secretary of state and**
38 **with the recorder of deeds and the county clerk of the county or counties in which the**
39 **district is located. If an agreement is developed between a city and a sewer district**
40 **pursuant to this subsection, subsections 2 to 8 of this section shall not apply to such**
41 **agreement.**

42 2. In the event that the board of trustees of such district and the city cannot reach such
43 an agreement, an application may be made by the board or the city to the circuit court requesting
44 that three commissioners develop such an agreement. Such application shall include the name
45 of one commissioner appointed by the applying party. The second party shall appoint one
46 commissioner within thirty days of the service of the application upon the second party. If the
47 second party fails to appoint a commissioner within such time period, the circuit court shall
48 appoint a commissioner on behalf of the second party. Such two named commissioners may
49 agree to appoint a third disinterested commissioner within thirty days after the appointment of
50 the second commissioner. In the event that the two named commissioners cannot agree on or
51 fail to appoint the third disinterested commissioner within thirty days after the appointment of
52 the second commissioner, the circuit court shall appoint the third disinterested commissioner.

53 3. Upon the filing of such application and the appointment of three such commissioners,
54 the circuit court shall set a time for one or more hearings and shall order a public notice
55 including the nature of the application, the annexed area affected, the names of the
56 commissioners, and the time and place of such hearings, to be published for three weeks
57 consecutively in a newspaper published in the county in which the application is pending, the last
58 publication to be not more than seven days before the date set for the first hearing.

59 4. The commissioners shall develop an agreement between the district and the city to
60 provide sewer service to the annexed territory. In developing the agreement, the commissioners
61 shall consider information presented to them at hearings and any other information at their
62 disposal including, but not limited to:

63 (1) The estimated future loss of revenue and costs for the sewer district related to the
64 agreement;

65 (2) The amount of indebtedness of the sewer district within the annexed territory;

66 (3) Any contractual obligations of the sewer district within the annexed area; and

67 (4) The effect of the agreement on the sewer rates of the district.

68 The agreement shall also include a recommendation for the apportionment of costs incurred
69 pursuant to subsections 2 to 8 of this section, including reasonable compensation for the
70 commissioners, between the city and the district.

71 5. If the circuit court finds that the agreement provides for necessary sewer service in the
72 annexed territory, then such agreement shall be fully effective upon approval by the circuit court.
73 The circuit court shall also review the recommended apportionment of court costs incurred and
74 the reasonable compensation for the commissioners and affirm or modify such recommendations.

75 6. The order and judgment of the circuit court shall be subject to appeal as provided by
76 law.

77 7. If the circuit court approves a detachment as part of the territorial agreement, it shall
78 make its order and judgment detaching the territory described in the application from the
79 remainder of the district and stating the boundary lines of the district after such detachment.

80 8. At such time that the circuit court's order and judgment becomes final, the clerk of the
81 circuit court shall file certified copies of such order and judgment with the secretary of state and
82 with the recorder of deeds and the county clerk of the county or counties in which the district is
83 located.

84 9. The proportion of the sum of all outstanding bonds and debt, with interest thereon,
85 that is required to be paid to the sewer district pursuant to this section, shall be the same as the
86 proportion of the assessed valuation of the real and tangible personal property within the area
87 sought to be detached bears to the assessed valuation of all of the real and tangible personal
88 property within the entire area of the sewer district.

204.571. An authorized representative, not a member of the common sewer district's
2 advisory board under section 204.310, from each political subdivision which lies partially within
3 a sewer subdistrict formed pursuant to sections 204.565 to 204.573 and which operates or is
4 served by a sewage collection system, together with the representatives of all other such political
5 subdivisions and of each county having territory within the subdistrict, shall constitute an
6 advisory board for the subdistrict. The advisory board shall organize by electing one of its
7 members as chairman, one as vice chairman, and one as a representative to the common sewer
8 district's advisory board formed pursuant to section 204.310, **however, if the subdistrict**
9 **advisory board consists of less than three members, then one subdistrict advisory board**
10 **member may serve in more than one such capacity.** The board of trustees of the common
11 sewer district shall keep the subdistrict advisory board informed, either directly or through the
12 district advisory board, as to all phases of the planning and operations of the subdistrict, and the

13 subdistrict advisory board shall make such recommendations to the common sewer district
14 advisory board as the subdistrict board deems advisable with regard to the construction and
15 operation of sewers and facilities in the subdistrict. **If a county or political subdivision with
16 the right of appointment under this section fails to appoint any subdistrict advisory board
17 member within sixty days after receiving a written request from the common sewer
18 district, then the board of trustees of the common sewer district may make such
19 appointment.**

250.233. Any city, town [or], village, **or sewer district** operating a sewerage system or
2 waterworks may establish, make and collect charges for sewerage services, including tap-on fees.
3 The charges may be set as a flat fee or based upon the amount of water supplied to the premises
4 and shall be in addition to those charges which may be levied and collected for maintenance,
5 repair and administration, including debt service expenses. Any private water company or public
6 water supply district supplying water to the premises located within said city, town [or], village,
7 **or sewer district** shall, at reasonable charge upon reasonable request, make available to such
8 city, town [or], village, **or sewer district** its records and books so that such city, town [or],
9 village, **or sewer district** may obtain therefrom such data as may be necessary to calculate the
10 charges for sewer service. Prior to establishing any such sewer charges, public hearings shall be
11 held thereon and at least thirty days' notice shall be given thereof.

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