

# *Missouri Revised Statutes*

## **Chapter 204 Common Sewer Districts in Certain Areas**

August 28, 2009

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**Common sewer districts, where formed--establishment of common sewer subdistrict--submission of question of election by order of court--contents of order--approval, required percentage--notice of election, contents--ballot, form--circuit court may create subdistrict upon petition--petition, contents--boundaries of subdistrict, description by metes and bounds.**

204.250. 1. If the construction and maintenance of a common system of trunk sewers and sewage treatment plants is necessary to secure proper sanitary conditions for the preservation of public health in a natural drainage area the major portion of which lies within a county of the first class containing all or part of a city having a population of four hundred fifty thousand or more, or in a county of the first class not having a charter form of government, or in a county of the second, third or fourth class, and which natural drainage area contains all or portions of several drainage basins, several municipalities or sewer districts, and if a common sewer district encompassing the entire area would be eligible for federal aid and assistance under the provisions of Title 33, Section 1151 et seq. of the United States Code Annotated, as now or as may hereafter be amended, the area may be established and incorporated as a common sewer district under sections 204.250 to 204.470 in the following manner: The county commission, or in charter counties, the county executive with the concurrence by resolution of the county legislature, of the county within which the major portion of the area lies may petition the circuit court having jurisdiction over the major portion for the appointment of commissioners as herein provided, and to take further action as may be necessary for the submission to the legal voters residing in the area of the question whether the area shall be organized and incorporated as a common sewer district under sections 204.250 to 204.470.

2. The petition shall set forth a description in general terms of the territory to be embraced in, suggest a name for the proposed common sewer district and state the aim and purposes for which the district is created.

3. Notwithstanding any provisions of law to the contrary, if a sanitary sewage disposal or treatment system is necessary for any number of buildings used solely or primarily for residential or commercial purposes which are situated in such geographical proximity and manner to one another that the creation of a sewage disposal or treatment system is feasible, and such buildings are situated in or are in geographical proximity to an existing common sewer district formed

pursuant to this chapter, and if sanitary sewage disposal or treatment services are not otherwise available for service to such buildings, regardless of whether the buildings lie in a natural drainage area or natural drainage basin, such area may be established as a common sewer subdistrict of an existing common sewer district formed pursuant to the provisions of this chapter by complying with the procedures set forth in subsections 4 to 7 of this section.

4. The circuit court of the circuit proposing to create a sewer subdistrict pursuant to subsection 3 of this section may, by order of the court, for good cause shown, submit the question of creating such subdistrict to all owners of record of all real property within such proposed subdistrict at a general or special election called for that purpose. Such order shall set forth the project name for the proposed subdistrict, the general nature of the proposed subdistrict, the estimated cost of the sewer improvements for such subdistrict, the boundaries of the proposed subdistrict to be assessed for sewer improvements, and the proposed method or methods of assessment. The court may thereafter create a sewer subdistrict of an existing common sewer district formed pursuant to this chapter when the question of creating such subdistrict has been approved by the vote of the percentage of electors within such subdistrict voting thereon that is equal to the percentage of voter approval required for the issuance of general obligation bonds of the city or county wherein such subdistrict is located under article VI, section 26 of the constitution of this state. The notice of election containing the question of creating a sewer subdistrict shall contain the project name for the proposed subdistrict, the general nature of the proposed subdistrict, the estimated cost of the sewer improvements for such subdistrict, the boundaries of the proposed subdistrict to be assessed for sewer improvements, the proposed method or methods of assessment, and a statement that the final cost of such sewer improvements assessed against property within the subdistrict and the amount of general obligation bonds issued therefor shall not exceed the estimated cost of such sewer improvements, as stated in such notice, by more than twenty-five percent. The ballot upon which the question of creating a sewer subdistrict is submitted to the qualified voters residing within the proposed subdistrict shall contain a question in substantially the following form:

Shall the ..... Circuit Court be authorized to create a sewer subdistrict proposed for the ..... (common sewer district name) and authorize the common sewer district to incur indebtedness and issue general obligation bonds to pay for all or part of the cost of the creation and maintenance of such subdistrict, the cost of all indebtedness so incurred to be assessed by the ..... (common sewer district name) on the property within the subdistrict?

5. As an alternative to the procedure described in subsection 4 of this section, the circuit court of the circuit may create such a sewer subdistrict when a proper petition has been signed by the owners of record of at least two-thirds by area of all real property located within such proposed subdistrict. The petition, in order to become effective, shall be filed with the circuit court. A proper petition for the creation of a sewer subdistrict shall set forth the proposed subdistrict name, the general nature of the proposed subdistrict, the estimated cost of the sewer improvements for such subdistrict, the boundaries of the proposed subdistrict to be assessed for sewer improvements, the proposed method or methods of assessment, a notice that the names of the signers may not be withdrawn later than seven days after the petition is filed with the court, and a notice that the final cost of such assessments against property within the subdistrict and the

amount of general obligation bonds issued therefor shall not exceed the estimated cost of sewer improvements, as stated in such petition, by more than twenty-five percent.

6. Upon receiving the requisite voter approval at an election or upon the filing of a proper petition with the court, the court may by order determine the advisability of the subdistrict and may order that the subdistrict be established and that preliminary plans and specifications for the subdistrict be made. Such order shall state and make findings as to the subdistrict name, the nature of the subdistrict, the estimated cost of the sewer improvements for such subdistrict, the boundaries of the subdistrict to be assessed for sewer improvements, the proposed method or methods of assessment, and shall also state that the final cost of such assessments against the property within the subdistrict and the amount of general obligation bonds issued therefor shall not, without a new election or petition, exceed the estimated cost of such sewer improvements by more than twenty-five percent.

7. The boundaries of the proposed subdistrict shall be described by metes and bounds, streets or other sufficiently specific description. The area of the subdistrict finally determined to be assessed may be less than, but shall not exceed, the total area comprising such district.

(L. 1967 p. 310 § 6, A.L. 1972 H.B. 1239 & 1300, A.L. 1973 H.B. 625, A.L. 1992 H.B. 1803)

CROSS REFERENCE:

Certain counties may assign operation of sewer district to common sewer district, which lies wholly or partially within county, procedure (Jackson, Cass, St. Louis and all first class noncharter counties), RSMo 249.451

### **Sewer subdistricts governed by provisions of this chapter.**

204.251. Except as specifically provided in sections 204.251 to 204.257 and except for the alternative method of creation prescribed in the provisions of subsections 3 to 7 of section 204.250, sewer subdistricts created pursuant to the provisions of subsections 3 to 7 of section 204.250 shall in all respects be governed by the provisions of this chapter.

(L. 1992 H.B. 1803 § 1)

### **Election to incur indebtedness, certification of results--issuance of bonds, ad valorem tax--sinking fund.**

204.252. If it appears that the required percentage of the voters of the subdistrict voting on the proposition of incurring indebtedness submitted at an election pursuant to subsections 3 to 7 of section 204.250 were in favor of incurring such indebtedness, the election authority shall make an order reciting the holding of such election and the results thereof, both for and against the proposition, and if the result of the election as certified shall be in favor of incurring the indebtedness and issuing the bonds, or if the required percentage of the voters of the common sewer district have, prior to the creation of the subdistrict, voted in favor of incurring

indebtedness and the amount of bonds issued under such authority does not exceed the amount approved by the voters at such election, then the board of trustees for the common sewer district may direct the issuance of such bonds to the amount of the debt authorized to be incurred, or any portion thereof, and shall either before or at the time of doing so provide for the collection of an annual ad valorem tax upon all of the taxable property within the subdistrict, which tax shall be sufficient to pay the interest on such indebtedness as it falls due, and also create a sinking fund for the payment of the principal thereof within twenty years from the date of contracting the same, such tax to be levied and collected as provided for in section 249.130, RSMo.

(L. 1992 H.B. 1803 § 2, A.L. 1993 S.B. 80, et al.)

### **Board of trustees, no power to levy taxes until approval.**

204.253. 1. The board of trustees of the common sewer district over the subdistrict formed under the alternative method of formation provided in subsections 3 to 7 of section 204.250 shall have no power to levy or collect any taxes for the payment of any indebtedness incurred by the common sewer district unless and until the voters of the common sewer district or the subdistrict shall have authorized the incurring of indebtedness at an election. All expenses and indebtedness incurred by the common sewer district on behalf of the subdistrict may be paid out of funds which may be received by the common sewer district on behalf of the subdistrict from the sale of bonds authorized by the voters of the subdistrict or the voters of the common sewer district.

2. Nothing in this section shall be construed to prevent the board of trustees from expending funds of the common sewer district for the benefit of the subdistrict or to require the board of trustees to expend funds of the common sewer district for the benefit of the subdistrict.

(L. 1992 H.B. 1803 § 3, A.L. 1993 S.B. 80, et al.)

### **Total amount of bonds limited--form of bonds--registration of bonds.**

204.254. 1. The total amount of any bonds issued pursuant to sections 204.251 to 204.257 for improvements to the subdistrict of the common sewer district shall not exceed ten percent of the assessed valuation of all taxable tangible property, as shown by the last completed property assessment for state or local purposes, within the common sewer district.

2. Such bonds shall be signed by the president of the board of trustees and attested by the signature of the secretary of the board of trustees with the seal of the district affixed thereto. The interest coupons may be executed by affixing thereon the facsimile signature of the secretary of the district. The bonds may be sold under the same conditions as are provided for the sale of county road bonds.

3. All bonds issued under sections 204.251 to 204.257 shall be registered in the office of the state auditor as provided by law for the registration of bonds of cities and in the office of the secretary of the board of trustees of the district in a book kept for that purpose for registry, shall show the

number, date, amount, date of sale, name of the purchaser and the amount for which the bond was sold. The moneys of the common sewer district shall be deposited by the treasurer of the common sewer district in such bank or banks as shall be designated by order of the board of trustees and the secretary of the common sewer district shall charge the treasurer therewith and the moneys shall be drawn from the treasury upon warrants issued by the common sewer district for the purposes for which the bonds were issued.

(L. 1992 H.B. 1803 § 4)

### **Secretary to certify costs--board to levy tax--collection and remittance of tax.**

204.255. 1. It shall be the duty of the secretary of the board of trustees of the common sewer district, on or before the fifteenth day of May in each year, to certify to the common sewer district board of trustees the amount of money that will be required during the next succeeding year to pay interest falling due on bonds issued and the principal of bonds maturing in such year, and the amount necessary to cover the estimated expenses of maintaining such sewer subdistrict system in good condition, or renting or leasing of existing sewer facilities and of maintaining the subdistrict with its necessary expenses.

2. On receipt of such certificate it shall be the duty of the board of trustees of the common sewer district to levy such a rate of taxes upon all the taxable property in the sewer subdistrict as will produce a sum of money sufficient for the purposes aforesaid; provided, that the board of trustees of the common sewer district shall have no authority to levy such tax until the voters of the common sewer district or subdistrict shall have voted to incur such indebtedness.

3. On such order being made it shall be the duty of the board of trustees of the common sewer district to cause such rate of taxation to be extended upon the tax books against all the taxable property in the sewer subdistrict and the same shall be collected and remitted to the board of trustees of the common sewer district by the collector of the revenue of the county at the time, in the manner, and by the same means as state, county, school and other taxes are collected and remitted. All of the laws, rights and remedies provided by the laws of this state for the collection of state, county, school and other taxes shall be applicable to the collection of taxes herein authorized to be collected.

(L. 1992 H.B. 1803 § 5, A.L. 1993 S.B. 80, et al.)

### **Powers of board of trustees of common sewer district after creation of subdistrict.**

204.256. When a sewer subdistrict of a common sewer district has been formed pursuant to the alternative method of creation prescribed in subsections 3 to 7 of section 204.250, the board of trustees of the common sewer district shall have the same powers with regard to the subdistrict as for the common sewer district as a whole, plus the following additional powers:

(1) To provide for the construction, extension, improvement, and operation of such sewers, sewer systems, and treatment and disposal facilities, as the board determines necessary for the preservation of public health and maintenance of sanitary conditions in the subdistrict;

(2) For the purpose of meeting the costs of activities undertaken pursuant to the authority granted in this section, to issue bonds in anticipation of revenues of the subdistrict in the same manner as set out in sections 204.360 to 204.450, for other bonds of the common sewer district. Issuance of such bonds for the subdistrict shall require the assent only of four-sevenths of the voters voting on the question;

(3) To charge the costs of the common sewer district for operation and maintenance attributable to the subdistrict, plus a proportionate share of the common sewer district's costs of administration to revenues of the subdistrict and to consider such costs in determining reasonable charges to impose within the subdistrict under section 204.440;

(4) To provide for the treatment and disposal of sewage from the subdistrict in or by means of facilities of the common sewer district not located within the subdistrict with the concurrence of the subdistrict advisory board, in which case the board of trustees shall also have authority to charge a proportionate share of the costs of the common sewer district for operation and maintenance to revenues of the subdistrict and to consider such costs in determining reasonable charges\* to impose within the subdistrict under section 204.440;

(5) To add contiguous property to the subdistrict with the approval of at least two-thirds of the landowners within such contiguous territory.

(L. 1992 H.B. 1803 § 6, A.L. 1993 S.B. 80, et al.)

\*Word "changes" appears in original rolls, an apparent typographical error.

### **Advisory board for subdistrict, creation, members--may make recommendations.**

204.257. The board of trustees of the common sewer district, in its discretion, may create an advisory board for the subdistrict to consist of five members, each serving a term of two years. An authorized representative, not a member of the common sewer district's advisory board under section 204.310, from the sewer subdistrict, together with the representatives of each county having territory within the subdistrict, may constitute the advisory board for the subdistrict. The board of trustees of the common sewer district may keep the subdistrict advisory board informed as to all phases of the planning and operations of the subdistrict, and the subdistrict advisory board may make such recommendations to the common sewer district advisory board as the subdistrict board deems advisable with regard to the construction and operation of sewers and facilities in the subdistrict.

(L. 1992 H.B. 1803 § 7, A.L. 1997 H.B. 340)

## **Common sewer commissioners, when appointed, oath, authority, compensation-- stenographer and clerk, compensation.**

204.260. 1. The circuit court shall within thirty days after receiving the petition appoint three disinterested persons, one of whom shall be a licensed civil engineer or surveyor, as common sewer district commissioners to lay out and define the boundaries of the proposed district.

2. The common sewer district commissioners may alter or amend the boundaries of the proposed district as set forth in the petition so that it embraces all of the area capable of being efficiently drained by the system of trunk sewers, or so as to exclude from the district any part of the natural drainage area which is so situated as not to be benefited by the proposed trunk sewers or treatment plants, and for this purpose they shall have power to have made all surveys and maps necessary to locate and describe the boundaries.

3. The common sewer district commissioners shall qualify by taking an oath to faithfully and impartially perform their duties and when so qualified shall give notice by publication at least five times, in one or more newspapers having a general circulation in the proposed district, of the time and place where they will meet to consider and establish the boundaries. The notice shall be given at least twenty days prior to the meeting, and the meeting place shall be in the courthouse of the county in which the major portion of the proposed district lies.

4. At the meeting the common sewer district commissioner first named in the order of appointment shall preside, and all persons residing or owning real property in the proposed district, or adjacent thereto, shall have the right to be heard as to the location of the boundaries of the proposed district; and the common sewer district commissioners or a majority of them after the hearing shall fix and determine the boundaries of the proposed district.

5. The common sewer district commissioners may adjourn from day to day until the hearings are complete, and for their services shall receive such compensation as may be determined by the circuit court which appoints them. They may employ a competent person as stenographer and clerk, whose compensation shall be as set by the circuit court.

(L. 1967 p. 310 § 7, A.L. 1986 H.B. 1554 Revision)

## **Report of commissioners, map or plan, where filed.**

204.270. The commissioners shall make their report, accompanied by a map or plan showing the boundaries of the proposed district in relation to the property lines intersected or followed by them, also in relation to city or county boundaries, to the court by which they were appointed, and shall thereupon be discharged by the court. The report and map, if approved by the court, shall then be filed in the office of the recorder of deeds for each county in which a portion of the proposed district is situated and with the county commission of each such county.

(L. 1967 p. 310 § 8)

**Election called by county commissions at direction of circuit court--costs, how taxed.**

204.280. 1. The circuit court shall by order direct the county commission of any county partially within the proposed district to submit to the voters of the proposed district the question of the organization and incorporation of the proposed common sewer district, with boundaries as determined by the commissioners and approved by the circuit court.

2. The county clerk of each county shall certify to the circuit court the results of the election in that portion of the proposed district within his county.

3. If the circuit court finds that a majority of the votes cast on the question in each county favored the incorporation of the proposed district, the court shall issue a decree incorporating the area described in the commissioners' report as a common sewer district. If the proposition is favored by a majority of those voting in the county containing the major portion of the district but not by a majority voting in the other county, the court shall change the boundaries to include only the area within the one county and shall decree the incorporation thereof.

4. If the question fails to receive a majority of the votes cast in the county containing the major portion of the proposed district, regardless of the results in the election in the other county, the court shall dismiss the petition and tax the costs of the proceedings and the election against the county which presented the petition.

(L. 1967 p. 310 § 9, A.L. 1978 H.B. 971)

**District a body corporate and politic, when.**

204.290. 1. When the board of trustees provided for in section 204.300 is appointed and organized, the district shall be considered in law and equity a body corporate and politic, known by the name specified in the original petition and the court's decree, and by that name and style may sue and be sued, contract and be contracted with, acquire and hold real estate and personal property necessary for corporate purposes, and adopt a common seal.

2. All courts in this state shall take judicial notice of the existence of any district organized under sections 204.250 to 204.470.

(L. 1967 p. 310 § 10)

**Trustees, how appointed, qualifications, expenses reimbursement, compensation-registered professional engineer, may employ.**

204.300. 1. In all counties except counties of the first classification which have a charter form of government and which contain all or any portion of a city with a population of three hundred fifty thousand or more inhabitants, the governing body of the county, by resolution, order, or ordinance, shall appoint five trustees, the majority of whom shall reside within the boundaries of the district. In the event the district extends into any county bordering the county in which the greater portion of the district lies, the presiding commissioner or other chief executive officer of the adjoining county shall be an additional member of the appointed board of trustees. The trustees may be paid reasonable compensation by the district for their services; except that, any compensation schedule shall be approved by resolution of the board of trustees. The board of trustees shall be responsible for the control and operation of the sewer district. The term of each board member shall be five years; except that, members of the governing body of the county sitting upon the board shall not serve beyond the expiration of their term as members of such governing body of the county. The first board of trustees shall be appointed for terms ranging from one to five years so as to establish one vacancy per year thereafter. The trustees may be paid reasonable compensation by the district for their services; except that, any compensation schedule shall be approved by resolution, order, or ordinance of the governing body of the county. Any and all expenses incurred in the performance of their duties shall be reimbursed by the district. The board of trustees shall have the power to employ and fix the compensation of such staff as may be necessary to discharge the business and purposes of the district, including clerks, attorneys, administrative assistants, and any other necessary personnel. The board of trustees shall select a treasurer, who may be either a member of the board of trustees or another qualified individual. The treasurer selected by the board shall give such bond as may be required by the board of trustees. The board of trustees shall appoint the sewer engineer for the county in which the greater part of the district lies as chief engineer for the district, and the sewer engineer shall have the same powers, responsibilities and duties in regard to planning, construction and maintenance of the sewers, and treatment facilities of the district as he now has by virtue of law in regard to the sewer facilities within the county for which he is elected. If there is no sewer engineer in the county in which the greater part of the district lies, the board of trustees may employ a registered professional engineer as chief engineer for the district under such terms and conditions as may be necessary to discharge the business and purposes of the district. The provisions of this subsection shall not apply to any county of the first classification which has a charter form of government and which contains all or any portion of a city with a population of three hundred fifty thousand or more inhabitants.

2. In any county of the first classification which has a charter form of government and which contains all or any portion of a city with a population of three hundred fifty thousand or more inhabitants, and in any county of the first classification without a charter form of government and which has a population of more than sixty-three thousand seven hundred but less than seventy-five thousand, there shall be an eight-member board of trustees to consist of the county executive, the mayors of the four cities constituting the largest users by flow during the previous fiscal year, the mayors of two cities which are not among the four largest users and who are members of the advisory board of the district established pursuant to section 204.310, and one member of the county legislature to be appointed by the county executive, with the concurrence of the county legislature. If the county executive does not appoint such members of the county legislature to the board of trustees within sixty days, the county legislature shall make the appointments. The advisory board members shall be appointed annually by the advisory board.

In the event the district extends into any county bordering the county in which the greater portion of the district lies, the number of members on the board of trustees shall be increased to a total of nine and the presiding commissioner or county executive of the adjoining county shall be an additional member of the board of trustees. The trustees shall receive no compensation for their services, but may be compensated for their reasonable expenses normally incurred in the performance of their duties. The board of trustees may employ and fix the compensation of such staff as may be necessary to discharge the business and purposes of the district, including clerks, attorneys, administrative assistants, and any other necessary personnel. The board of trustees may employ and fix the duties and compensation of an administrator for the district. The administrator shall be the chief executive officer of the district subject to the supervision and direction of the board of trustees and shall exercise the powers, responsibilities and duties heretofore exercised by the chief engineer prior to September 28, 1983. The administrator of the district may, with the approval of the board of trustees, retain consulting engineers for the district under such terms and conditions as may be necessary to discharge the business and purposes of the district. The provisions of this subsection shall only apply to counties of the first classification which have a charter form of government and which contain all or any portion of a city with a population of three hundred fifty thousand or more inhabitants.

(L. 1967 p. 310 § 11, A.L. 1972 H.B. 1239 & 1300, A.L. 1973 H.B. 625, A.L. 1983 H.B. 371, A.L. 1993 S.B. 244, et. al., A.L. 1997 H.B. 340, A.L. 1999 H.B. 450, A.L. 2001 H.B. 501)

CROSS REFERENCE:

Election to consolidate sewer districts must be submitted to voters by resolution, RSMo 249.1100

### **Advisory board, composition of--not required, when.**

204.310. The representative of each subdistrict advisory board chosen pursuant to section 204.571, together with the mayor or chief executive officer or the authorized representative of every incorporated municipality and a representative authorized in writing to act in that capacity of every subdistrict, which lies partially within the district and which operates a sewage collection system which will discharge sewage into the trunk sewers or the sewage facilities of the common sewer district shall constitute an advisory board of the district. If there are three or fewer municipalities and subdistricts the organization of an advisory board is optional at the discretion of the board of trustees, and in such case all powers can be exercised by the board of trustees without the concurrence of the advisory board. The advisory board shall organize by electing one of its members as chairman and one as vice chairman. The board of trustees shall keep the advisory board informed as to all phases of the planning and operations of the district, and the advisory board shall make such recommendations to the board of trustees as it deems advisable with regard to the construction and operation of the sewers and facilities of the district.

(L. 1967 p. 310 § 12, A.L. 1972 H.B. 1239 & 1300, A.L. 1983 H.B. 371, A.L. 1992 H.B. 948)

Effective 2-18-92

## **Board of trustees of common sewer districts, powers--board of trustees of certain districts, powers--enforceability of orders--industrial user defined.**

204.320. 1. The board of trustees of any common sewer district shall have power to pass all necessary rules and regulations for the proper management and conduct of the business of the board of trustees, and of the district, and for carrying into effect the objects for which the district is formed.

2. The board of trustees of a district in any first class county with a charter form of government which contains all or part of a city with a population of three hundred fifty thousand or more inhabitants shall, subject to compliance with the exercise of lawful authority granted to or rules adopted by the clean water commission pursuant to section 644.026, RSMo, exercise primary authority to adopt, modify, and repeal, and to administer and enforce rules and regulations with respect to:

(1) The establishment, construction, reconstruction, improvement, repair, operation, and maintenance of its sewer systems and treatment facilities;

(2) Industrial users discharging into its sewer systems or treatment facilities;

(3) The establishment, operation, administration, and enforcement of a publicly owned treatment works pretreatment program consistent with state and federal pretreatment standards, including inspection, monitoring, sampling, permitting and reporting programs and activities. The board of trustees may, in addition to any pretreatment standards imposed under this section, require of any user of its treatment facilities such other pretreatment of industrial wastes as it deems necessary to adequately treat such wastes.

3. The rules and regulations adopted by the board of trustees pursuant to subsection 2 of this section shall be applicable, and enforceable by civil, administrative or other actions within any territory served by its sewer systems or treatment facilities and against any municipality, subdistrict, district or industrial user who shall directly or indirectly discharge sewage or permit discharge of sewage into the district's sewer system or treatment facilities.

4. The authority granted to the board by this section is in addition to and not in derogation of any other authority granted pursuant to the constitution and laws of Missouri, any federal water pollution control act, or the rules of any agency of federal or state government.

5. The term "industrial user", as used in this section and in section 204.300, shall mean any nondomestic source of discharge or indirect discharge into the district's wastewater system which is regulated under section 307(b), (c), or (d) of the Clean Water Act, or any source listed in division A, B, D, E, or I of the Standard Industrial Classification Manual, or any solid waste disposal operation such as, but not limited to, landfills, recycling facilities, solid or hazardous waste handling or disposal facilities and facilities which store or treat aqueous wastes as

generated by facilities not located on site and which dispose of these wastes by discharging them into the district's wastewater system.

(L. 1967 p. 310 § 13, A.L. 1992 H.B. 948 merged with H.B. 1307)

Effective 2-18-92 (H.B. 948) 4-7-92 (H.B. 1307)

### **Board of trustees, rules and regulations.**

204.322. The board of trustees of a district, other than a district described in section 204.320, may pass all necessary rules and regulations for the proper management and conduct of the business of the board of trustees, and the district, and for carrying into effect the objects for which the district is formed.

(L. 1992 H.B. 1307)

Effective 4-7-92

### **Board of trustees, duties--agreements as to manner of discharge--disputes, procedure, effect--petition for enforcement of agreement--power to contract--refusal to receive wastes--powers as to operation of facilities--procedural remedies--false reports, penalty.**

204.330. 1. It shall be the duty of the board of trustees to make the necessary surveys, and to lay out and define the general plan for the construction and acquisition of land, rights-of-way and necessary sewers and treatment facilities and of any extensions, expansions, or improvements thereof within the district.

2. The board of trustees may enter into agreements with each municipality, subdistrict, private district or any industrial user which discharges sewage into trunk sewers, streams or the treatment facilities of the district concerning the locations and the manner in which sewage may be discharged into the district system or streams within the district and concerning the permissible content of acid wastes, alkaline wastes, poisonous wastes, oils, grit or other wastes which might be hazardous or detrimental to the system. If no agreement is obtained with regard to any such matter the trustees shall refer the dispute to the clean water commission and the determination of the commission shall be binding upon the district, municipality, subdistrict or private district. Each municipality, subdistrict or private district shall control the discharge of wastes into its collection sewers to the extent necessary to comply with the agreement or the determination of the clean water commission. The board of trustees of a common sewer district or the governing body of any municipality, subdistrict, private district or industrial user discharging sewage into the stream or the system may petition the circuit court which decreed the incorporation of the district for an order enforcing compliance with any provision of such an agreement or determination, and that circuit court shall have jurisdiction in all cases or questions

arising out of the organization or operations of the district, or from the acts of the board of trustees.

3. The board of trustees may contract with each participating community for the payment of its proportionate share of treatment costs.

4. The board of trustees may contract with public agencies, individuals, private corporations, and political subdivisions, inside and outside the common sewer district, to permit them to connect with and use the district's facilities according to such terms, conditions, and rates as the board determines are in the interest of the district and regardless of whether such agencies, individuals, corporations, and subdivisions are in the same natural drainage area or basins as the district.

5. The board of trustees may refuse to receive any wastes into the sewage system which do not meet relevant state or federal water pollution, solid waste, or pretreatment standards.

6. The board of trustees shall have all of the powers necessary and convenient to provide for the operation, maintenance, administration, and regulation, including the adoption of rules and regulations, of any individual home sewage or business treatment systems within the jurisdiction of the sewer district.

7. The board of trustees shall have all of the powers necessary and convenient to provide for the operation and maintenance of its treatment facilities and the administration, regulation, and enforcement of its pretreatment program, including the adoption of rules and regulations, to carry out its powers with respect to all municipalities, subdistricts, districts, and industrial users which discharge into the collection system of the district's sewer system or treatment facilities. These powers include, but are not limited to:

(1) The promulgation of any rule, regulation or ordinance;

(2) The issuance, modification or revocation of any order;

(3) The issuance, modification or revocation of any permit;

(4) The levying of a civil administrative fine upon any industrial user in violation of the district's rules, regulations and ordinances, or any permit or order issued thereunder, in an amount not to exceed one thousand dollars per violation per day;

(5) Commencing an action through counsel for appropriate legal or equitable relief in the circuit court which decreed the district's incorporation against any industrial user in violation of the district's rules, regulations and ordinances or any permit or order issued thereunder; and

(6) Petitioning the prosecutor for the county in which any criminal violation of the district's rules, regulations, ordinances or any permit or order issued thereunder has occurred to institute criminal proceedings.

8. The board of trustees may adopt rules and regulations creating procedural remedies for all persons affected by any order or permit issued, modified or revoked or any fine or penalty levied by the board including but not limited to the grant of reasonable time periods for such persons to respond, to show cause, and to request reconsideration of fines or penalties levied.

9. Any person who knowingly makes any false statements, representations or certifications in any application, record, report, plan or other document filed or required to be maintained pursuant to the district's rules, regulations, ordinances or wastewater permit, or who falsifies, tampers with or knowingly renders inaccurate any monitoring device or method required under the district's rules, regulations or ordinances shall, upon conviction, be punishable by a fine of not more than one thousand dollars per violation per day or imprisonment for not more than one year or both. In the event of a second conviction, the person shall be punishable by a fine not to exceed three thousand dollars per violation per day or imprisonment for not more than three years or both. Any penalty imposed by this subsection shall not preclude any appropriate civil remedy.

10. Whenever any reference is made in this section to any action that may be taken by the board of trustees, such reference includes such action by its executive officer pursuant to powers and duties delegated to such executive officer by the board of trustees.

(L. 1967 p. 310 § 14, A.L. 1972 H.B. 1239 & 1300, A.L. 1983 H.B. 371, A.L. 1992 H.B. 948 merged with H.B. 1307)

Effective 2-18-92 (H.B. 948) 4-7-92 (H.B. 1307)

### **Subdistricts, how created--contract powers.**

204.331. The county commission, or county legislature, may, in addition to all powers herein granted or implied, create a subdistrict or subdistricts within the county, which subdistrict, when created, shall be a body corporate and politic. Creation of the subdistrict or subdistricts shall be in the manner hereinafter provided, but in all other respects the administration and operation of the subdistricts shall be in the manner provided by sections 249.430 to 249.660, RSMo. Either the county commission or the members of the county legislature elected from all or a portion of the subdistrict shall act as the governing body of the sewer subdistrict. Each subdistrict so created shall, in addition to the powers granted by sections 249.430 to 249.660, RSMo, have the power and ability to contract with the common sewer district created pursuant to sections 204.250 to 204.470, or with other subdistricts for the collection, transportation and treatment of sewage or any function associated therewith, including but not limited to engineering, construction, maintenance, repair, and administrative services required for the collection, transportation, and treatment of sewage.

(L. 1972 H.B. 1239 & 1300, A.L. 1983 H.B. 371)

### **Subdistricts, how created, alternative method.**

204.332. In lieu of the method of incorporation provided in sections 249.450 and 249.460, RSMo, subdistricts may be created in the following manner: Upon written recommendation of the county highway engineer, county sewer engineer, or director of public works; or upon petition of twenty percent or more of the registered voters within the area which will be liable to assessment for the construction and maintenance of a sewer system, setting forth generally the area to be included, the county commission or county legislature shall adopt a resolution to establish the subdistrict and describing generally the size and location of the proposed subdistrict. The county commission or county legislature may designate the highway engineer or director of public works as sewer engineer, or may retain the services of an engineer or firm of engineers as sewer engineers. The sewer engineer shall advise the county commission or county legislature with reference to proper boundaries of any subdistricts to be established and shall also superintend the construction of the sewers and the maintenance thereof and the apportionment of the cost thereof as provided by law. The county commission or county legislature shall also request the county clerk, clerk of the legislature, or other appropriate officer to appoint or designate a deputy to keep the special records which are required for the proceedings for the construction and maintenance of the sewer subdistricts or divisions. In addition, the requirements of sections 249.070 and 249.480, RSMo, must be complied with before a sewer subdistrict can be incorporated under the provisions of sections 204.331 and 204.332.

(L. 1972 H.B. 1239 & 1300, A.L. 1983 H.B. 371)

### **Board to have power of eminent domain--may cross, traverse or follow public highways--restoration at cost of district.**

204.340. 1. The board of trustees shall have the right to condemn any land or other property within the district for right-of-way for trunk sewers or for any other improvement or structure deemed necessary or advisable for or in connection with the sewer and treatment system of the district, and in so doing shall follow the procedure that is provided by chapter 523, RSMo. The board of trustees shall also have the same authority to enter upon private lands to survey land or other property before exercise of the above condemnation powers as is granted under section 388.210, RSMo, to railroad corporations.

2. The board of trustees in any first class noncharter county having a population of more than one hundred and forty-five thousand and less than one hundred and fifty thousand as determined by the preceding decennial census may acquire by purchase, gift or condemnation or may lease or rent any real or personal property and in so doing shall follow the procedure that is provided by chapter 523, RSMo. All the powers may be exercised both within or without the district as may be necessary for the exercise of its powers or the accomplishment of its purposes.

3. The board of trustees of the district, if it is necessary to cross, follow or traverse public streets, roads or alleys, or grounds held or used as public parks or places, shall have the right to do so upon the following conditions: The board of trustees shall file with the county commission or mayor of the municipality having immediate jurisdiction over the street, road, alley or public park or place, a map showing the location and extent of the proposed occupancy for drainage purposes and a plan of the proposed works, which plan shall be so made and arranged as not to

interfere with the ordinary and lawful use of the street, road, alley, public park or place, except during a reasonable time for the construction of the necessary works.

4. The entire expense of the works and restoration of the ground occupied to its former condition, as near as may be, shall be borne by the district.

(L. 1967 p. 310 § 15, A.L. 1983 H.B. 371)

### **Contracts let by board on bids, exceptions.**

204.350. 1. The board of trustees for the district shall let contracts for all work to be done, excepting in case of repairs or emergencies requiring prompt attention, in the construction of trunk sewers and sewage treatment plants under the authority of sections 204.250 to 204.470, the expense of which will exceed five hundred dollars, to the lowest responsible bidder therefor, upon not less than twenty days' notice of the letting, given by publication in a newspaper of general circulation in the district, and in the discretion of the board, in one or more newspapers of general circulation among contractors. The board shall have the power and authority to reject any and all bids and readvertise the work.

2. The board of trustees, subject to the concurrence of the advisory board established by sections 204.250 to 204.470, shall also have the power to enter into agreements with persons, firms or corporations of known standing and competence for the execution and preparation of the surveys, maps and plans needed and required by the board, and also for the laying out and superintendence of work to be constructed under the authority of sections 204.250 to 204.470, but no single agreement so made shall cover more than one piece or class of work.

(L. 1967 p. 310 § 16)

### **Extension of boundaries, procedure--ballot form.**

204.355. 1. Whenever any sewer district shall have been organized as provided by sections 204.250 to 204.470, and it shall appear necessary, convenient or advisable to extend the boundaries of such district for the purpose of including therein a contiguous area which could be efficiently served by the sewer system of the district, or by reasonable modifications, extensions or improvements thereof, the boundaries of the district may be extended as provided in this section, but the extension shall not include any territory within the boundaries of any other sewer district.

2. The trustees of the district may, and shall upon receipt of a petition signed by twenty-five or more persons residing either within the present boundaries of the district or within the area of the proposed addition, file with the circuit court having jurisdiction of the district a petition setting forth the reasonableness or necessity for extending the boundaries of the district, the boundary lines of the proposed extension, and a prayer for such further action as may be necessary to determine the question as to whether the boundaries of the district should be extended.

3. The court shall fix a time at which it will hear the petition or any objections thereto, and it shall be the duty of the clerk of the circuit court to cause a notice to be published in a newspaper of general circulation in the county where the proceedings are pending for three consecutive weeks before the court date, which notice shall set out the proposed boundaries of the extension of the district.

4. If upon the hearing of the petition and objections, the court shall find that an extension of the boundaries of the district is necessary or reasonable for the preservation of the public health or public welfare, or will be of public utility or benefit, the court shall find in favor of the petitioners and shall render its decree to that effect. In its decree the court may alter or amend the boundaries of the proposed extension as originally proposed in the petition. If the court shall find that such an extension is not necessary or will not be of public health or public welfare or will not be of public utility or benefit and will not be advisable, then it shall find against the petitioners and shall dismiss the petition.

5. If the court shall find in favor of the petitioners, it shall enter its order directing the appropriate election authority to call and hold an election in the original sewer district and the territory proposed to be annexed on the question of whether the territory should be annexed to the sewer district. The notice shall include a description of the territory to be annexed.

6. The question shall be submitted in the following form:

"Shall the ..... sewer district annex the contiguous area described in the notice for this election?"

7. The election authority shall certify the results of the election to the circuit court having jurisdiction of the matter. If a majority of the votes cast on the proposition, in the original sewer district and the territory to be annexed combined, shall be in favor of the annexation, then the court shall render a decree declaring the boundaries of the district to be extended and describing the boundaries of the district as extended. If a majority of the votes cast on the proposition, in the original sewer district and the territory to be annexed combined, shall be against the annexation, then the court shall render a decree declaring that the proposal to extend the boundaries has failed and that the boundaries of the sewer district shall remain unchanged.

(L. 1983 H.B. 371)

### **Costs of common sewer district met, how.**

204.360. The cost of any common sewer district of acquiring, constructing, improving or extending a sewerage system may be met:

(1) Through the expenditures by the sewer district of any funds available for that purpose;

(2) From any other funds which may be obtained under any law of the state or of the United States or from any county or municipality for that purpose; or

(3) From the proceeds of revenue bonds of the common sewer district, payable solely from the revenues to be derived from the operation of such sewerage system or from any combination of\* all the methods of providing funds.

(L. 1967 p. 310 § 17)

\*Word "or" appears in original rolls.

### **Bonds, issuance on four-sevenths vote--certain counties (Jackson and Cass).**

204.370. 1. No common sewer district in any county of the first classification which has a charter form of government and which contains all or any portion of a city with a population of three hundred fifty thousand or more inhabitants, or in any county of the first classification without a charter form of government and which has a population of more than sixty-three thousand seven hundred but less than seventy-five thousand shall issue or deliver any bonds for the purpose of acquiring, constructing, improving or extending any sewerage system payable from the revenues to be derived from the operation of the system unless a proposition to issue the bonds shall have received the assent of a majority of the voters of the sewer district who shall vote on the question or the written assent of three-quarters of the customers of the sewer district. For purposes of this section, "customer" shall mean:

(1) A political subdivision within the district which has a service or user agreement with the district; or

(2) A duly created subdistrict.

2. The question shall be submitted in substantially the following form:

Shall revenue bonds in the amount of ..... dollars for the purpose of ..... (acquiring, constructing, improving or extending the sewerage system) be issued by the ..... common sewer district?

(L. 1967 p. 310 § 18, A.L. 1978 H.B. 971, A.L. 2001 H.B. 501)

### **Sewer districts and water districts may issue joint revenue bonds.**

204.375. Any sewer district organized hereunder and any public water district organized under chapter 247, RSMo, although constituted separately, may issue joint revenue bonds, the proceeds, obligation and repayment of which shall be apportioned between the districts by contract, the basic terms of which shall be a part of the notice of elections; provided, however, each water and sewer district combining jointly to issue such bonds shall comply generally with the requirements for the issuance of bonds under their respective statutes.

(L. 1972 H.B. 1239 & 1300)

## **Bonds issued when, interest rate, redemption period, type, how signed, how sold.**

204.380. 1. Revenue bonds authorized at an election held as hereinabove provided shall be issued by authority of a resolution adopted by the board of trustees of the district; provided, however, that such resolution shall have the prior concurrence of the advisory board established by sections 204.250 to 204.470. The resolution shall recite that an estimate of the cost of the proposed acquisition, construction, improvement or extension has been made and shall set out the estimated cost; it shall set out the amount of the bonds proposed to be issued, their purposes, their dates, denominations, rates of interest, times of payment, both of principal and of interest, places of payment and all other details in connection with the bonds.

2. The bonds may be subject to such provision for redemption prior to maturity, with or without premium, and at such times and upon such conditions as may be provided by the board of trustees of the common sewer district.

3. The bonds shall bear interest at a rate in accordance with section 108.170, RSMo, and shall mature over a period not exceeding thirty-five years from the date thereof.

4. The bonds may be payable to bearer, may be registered or coupon bonds, and if payable to bearer may contain such registration privileges as to either principal and interest, or principal only, as may be provided in the resolution authorizing the bonds.

5. The bonds and the coupons to be attached thereto, if any, shall be signed in such manner and by such officers as may be directed by resolution. Bonds signed by an officer who shall hold the office at the time the bonds are signed shall be deemed validly and effectually signed for all purposes, regardless of whether or not any officer shall cease to hold his office prior to the delivery of the bonds and regardless of whether or not any officer shall have held or shall not have held such office on the date ascribed to the bonds.

6. The bonds shall be sold in such manner and upon such terms as the board of trustees of the common sewer district shall determine, but the bonds shall not be sold for less than ninety cents on the dollar nor shall they be sold at such a price that the interest cost upon the actual proceeds of the bonds from the date thereof to their maturity shall exceed a rate in accordance with section 108.170, RSMo. The resolution may provide that certain bonds authorized thereby shall be junior or subordinate in any or all respects to other revenue bonds authorized concurrently therewith or prior to or after such bonds.

(L. 1967 p. 310 § 19, A.L. 1983 H.B. 371)

## **Revenue bonds, payable how, not an indebtedness of district--information required on face of bond.**

204.390. Revenue bonds issued under authority of sections 204.250 to 204.470 shall be payable solely from the revenues derived and to be derived from the operation of the sewerage system acquired, constructed, improved or extended in whole or in part from the proceeds of the bonds. No revenue bonds issued pursuant to sections 204.250 to 204.470 shall constitute an indebtedness of the common sewer district within the meaning of any constitutional or statutory restriction, limitation or provision. The face of each bond shall state in substance that the bond has been issued under the provisions of sections 204.250 to 204.470, that the taxing power of the common sewer district issuing the bond is not pledged to the payment thereof either as to principal or interest and that the bond and the interest thereon are payable solely from the revenues of the sewerage system for the benefit of which the bond was issued.

(L. 1967 p. 310 § 20)

### **District to charge and collect sufficient revenues.**

204.400. It shall be the mandatory duty of any common sewer district which shall issue revenue bonds pursuant to sections 204.250 to 204.470:

- (1) To fix and maintain rates and make and collect charges for the use and services of the system, for the benefit of which revenue bonds were issued, sufficient to pay the cost of maintenance and operation thereof;
- (2) To pay the principal of and the interest on all revenue bonds issued by the common sewer district chargeable to the revenues of the system; and
- (3) To provide funds ample to meet all valid and reasonable requirements of the resolution by which the revenue bonds have been issued. The rates shall be from time to time revised so as fully to meet the requirements of sections 204.250 to 204.470. As long as any bond so issued or the interest thereon shall remain outstanding and unpaid, rates and charges sufficient to meet the requirements of this section shall be maintained and collected by the sewer district which issued the bonds.

(L. 1967 p. 310 § 21)

### **Net revenues defined, how expended.**

204.410. 1. Whenever any common sewer district authorizes and issues revenue bonds pursuant to sections 204.250 to 204.470, an amount sufficient for the purpose of the net revenues of the sewerage system for the benefit of which the bonds are issued shall, by operation of sections 204.250 to 204.470, be pledged to the payment of the principal of and the interest on the bonds as the same shall mature and accrue.

2. The term "net revenues" shall be construed to mean all income and revenues derived from the ownership and operation of the system less the actual and necessary expenses of operation and maintenance of the system.

3. It shall be the mandatory duty of the treasurer of the common sewer district to provide for the prompt payment of the principal and interest on any revenue bonds as they mature and accrue.

(L. 1967 p. 310 § 22, A.L. 1975 H.B. 723, A.L. 1983 H.B. 371, A.L. 1992 H.B. 948)

Effective 2-18-92

**Board may authorize establishment of various accounts by resolution--may limit issuance of additional bonds and limit rights of holders of such bonds.**

204.420. 1. The resolution of the board of trustees of the common sewer district authorizing the issuance of revenue bonds under the authority of sections 204.250 to 204.470 may provide that periodic allocations of the revenues to be derived from the operation of the system for the benefit of which the bonds are issued shall be made into such accounts, separate and apart from any other accounts of the district, as shall be deemed to be advisable to assure the proper operation and maintenance of the system and the prompt payment of the indebtedness chargeable to the revenues of the system. The accounts may include, but shall not be limited to:

- (1) An account for the purpose of providing funds for the operation and maintenance of the system;
- (2) An account to provide funds for the payment of the bonds as to principal and interest as they come due;
- (3) An account to provide an adequate reserve for depreciation, to be expended for replacements of the system;
- (4) An account for the accumulation of a reserve to assure the prompt payment of the bonds and the interest thereon whenever and to the extent that other funds are not available for the purpose;
- (5) An account to provide funds for contingent expenses in the operation of the system;
- (6) An account to provide for the accumulation of funds for the construction of extensions and improvements to the system; and
- (7) Such other accounts as may be desirable in the judgment of the board of trustees.

2. The resolution may also establish such limitations as may be expedient upon the issuance of additional bonds, payable from the revenues of the system, or upon the rights of the holders of such additional bonds. Such resolution may include other agreements with the holders of the

bonds or covenants or restrictions necessary or desirable to safeguard the interests of the bondholder and to secure the payment of the bonds and the interest thereon.

(L. 1967 p. 310 § 23, A.L. 1992 H.B. 948)

Effective 2-18-92

### **Refunding bonds authorized.**

204.430. For the purpose of refunding, extending and unifying the whole or any part of any valid outstanding bonded indebtedness payable from the revenues of a sewerage system, any common sewer district may issue refunding bonds not exceeding in amount the principal of the outstanding indebtedness to be refunded and the accrued interest to the date of the refunding bonds. The board of trustees of the sewer district shall provide for the payment of interest at not to exceed the same rate and the principal of the refunding bonds in the same manner and from the same source as was provided for the payment of interest on and principal of the bonds to be refunded.

(L. 1967 p. 310 § 24)

### **Charges to be at rate recommended by advisory board, exception.**

204.440. The board of trustees shall impose, charge and collect a reasonable charge from the sewer districts and municipalities, based upon sewage discharge as shown by metering such flows, the volume of water used by the residential, commercial, and industrial establishments' customers within the corporate limits of such district or municipality, or other equitable measure. Such charges shall be fixed at such rate or rates as are recommended to the board of trustees by the advisory board; except that such rates shall ensure that the rates fixed will provide sufficient revenues for the operation and maintenance of the system and the payment of principal and interest on all outstanding revenue bonds as provided in sections 204.250 to 204.470.

(L. 1967 p. 310 § 25, A.L. 1992 H.B. 948)

Effective 2-18-92

### **Proposition defeated, costs already incurred, paid how--successive elections for bond, authorized.**

204.450. If, after the preparation of a plan for a system of trunk sewers and treatment facilities, the voters of the common sewer district defeat the proposition for the issuance of revenue bonds to fund the construction of the system, the board of trustees may levy and assess upon all real property within the district a special tax at such rate as shall be necessary to pay the cost incurred

in the proceedings incorporating the district, the preparation of the plan for the trunk sewer and treatment system, the conduct of the elections in the district and the necessary expenses of the district from the time of its incorporation until the bond election. The special tax shall be levied by the county commission, county commissions, or county legislature and shall be collected and enforced by the same officers and in the same manner as provided for state and county taxes. If the voters of the common sewer district defeat a proposition for the issuance of revenue bonds, successive revenue bond issue elections may be held and the same proposition or different propositions may be submitted to the voters in accordance with section 204.370.

(L. 1967 p. 310 § 26, A.L. 1983 H.B. 371)

### **Delinquent fees or charges by sewer district to bear interest from due date--lien on land, when--procedure.**

204.455. 1. Any user charges, connection fees, or other charges levied by the sewer district shall be due at such time or times as specified by the board of trustees, and shall, if not paid by the due date, become delinquent and shall bear interest from the date of delinquency until paid. If such charges become delinquent they shall be a lien upon the land charged, upon the board of trustees filing with the recorder of deeds in the county where the land is situated a notice of delinquency. The board of trustees shall file with the recorder of deeds a similar notice when the delinquent amounts, plus interest and any recording fees or attorneys' fees, have been paid in full. The lien hereby created may be enforced by suit or foreclosure.

2. For purposes of this section, the term "board of trustees" shall include, but is not limited to, the board of trustees established in subsection 2 of section 204.300.

(L. 1983 H.B. 371, A.L. 1984 H.B. 1590)

### **Board may accept grants of funds, material or labor and enter required agreements.**

204.460. The board of trustees of the common sewer district may apply for and accept grants or funds, material or labor, from the state and federal government, or any departments thereof, in the construction of a sewerage system as provided by sections 204.250 to 204.470, and may enter into such agreements as may be required of the state or federal laws, or the rules and regulations of any federal or state department, to which the application is made, and where the assistance is granted.

(L. 1967 p. 310 § 27)

### **Local government officials required to perform certain acts and services.**

204.470. It is hereby made the duty of the mayors of cities, the circuit court, the governing bodies of counties, and all assessors, sheriffs, collectors, treasurers and other officials in the state of Missouri to do and perform all the acts and to render all the services necessary to carry out the purposes of sections 204.250 to 204.470.

(L. 1967 p. 310 § 28, A.L. 1983 H.B. 371)

### **Sewer service to be provided by agreement for certain annexed areas, procedure (Poplar Bluff, Butler County).**

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

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

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

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

- (1) The estimated future loss of revenue and costs for the sewer district related to the agreement;
- (2) The amount of indebtedness of the sewer district within the annexed territory;
- (3) Any contractual obligations of the sewer district within the annexed area; and
- (4) The effect of the agreement on the sewer rates of the district.

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

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

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

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

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

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

(L. 2002 S.B. 984 & 985)

### **Formation of political subdivision as unincorporated subdistrict--procedure--petition, contents.**

204.565. One or more political subdivisions of this state not within a common sewer district formed pursuant to sections 204.250 to 204.470 may be joined as an unincorporated subdistrict to such common sewer district, regardless of whether such political subdivision lies in the natural drainage area or basins of such district, in the following manner: The governing body of any such political subdivision, together with the trustees of the common sewer district, may petition the circuit court having jurisdiction over the major portion of the area to be joined to the common sewer district as the proposed subdistrict for extension of the boundaries of the common sewer district to include as a subdistrict the area within the political subdivision described in the petition. The petition shall also set forth a name for the proposed subdistrict, shall state the purposes for which such subdistrict of the common sewer district is to be created, shall set forth the boundaries of the proposed subdistrict, and shall have a map of the proposed subdistrict attached thereto.

(L. 1992 H.B. 948 § 1)

Effective 2-18-92

### **Circuit court shall hold hearing, notice, contents--decree, filing.**

204.567. The circuit court with jurisdiction over the formation of a sewer subdistrict and extension of the boundaries of a common sewer district to include such subdistrict pursuant to section 204.565 shall, within thirty days after receiving the petition, schedule a public hearing on the petition. The clerk of the circuit court having such jurisdiction shall give notice of the time and the place of the public hearing by publication at least once each week for three consecutive weeks in one or more newspapers having a general circulation in the proposed subdistrict and in the common sewer district. Such notice shall state that the subdistrict will, upon its formation, be a subdistrict of the common sewer district, which will be identified by name, and shall describe either the boundaries of the proposed subdistrict or the area to be included within the proposed subdistrict. If the court shall find formation of such subdistrict reasonable or necessary, the court shall enter its decree extending the boundaries of the common sewer district, declaring the area to be a sewer subdistrict of the common sewer district, and approving the map submitted by the petitioners. The decree and map shall then be filed by the circuit clerk in the office of the recorder of deeds for each county in which any portion of such subdistrict and of the common sewer district is situated and with the county commission or county legislature, as the case may be, of each such county.

(L. 1992 H.B. 948 § 2)

Effective 2-18-92

## **Board of trustees, powers in unincorporated sewer subdistrict--additional powers.**

204.569. When an unincorporated sewer subdistrict of a common sewer district has been formed pursuant to sections 204.565 to 204.573, the board of trustees of the common sewer district shall have the same powers with regard to the subdistrict as for the common sewer district as a whole, plus the following additional powers:

- (1) To enter into agreements to accept, take title to, or otherwise acquire, and to operate such sewers, sewer systems, treatment and disposal facilities, and other property, both real and personal, of the political subdivisions included in the subdistrict as the board determines to be in the interest of the common sewer district to acquire or operate, according to such terms and conditions as the board finds reasonable, provided that such authority shall be in addition to the powers of the board of trustees pursuant to section 204.340;
- (2) To provide for the construction, extension, improvement, and operation of such sewers, sewer systems, and treatment and disposal facilities, as the board determines necessary for the preservation of public health and maintenance of sanitary conditions in the subdistrict;
- (3) For the purpose of meeting the costs of activities undertaken pursuant to the authority granted in this section, to issue bonds in anticipation of revenues of the subdistrict in the same manner as set out in sections 204.360 to 204.450, for other bonds of the common sewer district. Issuance of such bonds for the subdistrict shall require the assent only of four-sevenths of the voters of the subdistrict voting on the question, and the principal and interest of such bonds shall be payable only from the revenues of the subdistrict and not from any revenues of the common sewer district as a whole;
- (4) To charge the costs of the common sewer district for operation and maintenance attributable to the subdistrict, plus a proportionate share of the common sewer district's costs of administration to revenues of the subdistrict and to consider such costs in determining reasonable charges to impose within the subdistrict under section 204.440;
- (5) With prior concurrence of the subdistrict's advisory board, to provide for the treatment and disposal of sewage from the subdistrict in or by means of facilities of the common sewer district not located within the subdistrict, in which case the board of trustees shall also have authority to charge a proportionate share of the costs of the common sewer district for operation and maintenance to revenues of the subdistrict and to consider such costs in determining reasonable charges to impose within the subdistrict under section 204.440.

(L. 1992 H.B. 948 § 3)

Effective 2-18-92

### **Authorized representative, advisory board--organization--recommendations.**

204.571. An authorized representative, not a member of the common sewer district's advisory board under section 204.310, from each political subdivision which lies partially within a sewer subdistrict formed pursuant to sections 204.565 to 204.573 and which operates or is served by a sewage collection system, together with the representatives of all other such political subdivisions and of each county having territory within the subdistrict, shall constitute an advisory board for the subdistrict. The advisory board shall organize by electing one of its members as chairman, one as vice chairman, and one as a representative to the common sewer district's advisory board formed pursuant to section 204.310. The board of trustees of the common sewer district shall keep the subdistrict advisory board informed, either directly or through the district advisory board, as to all phases of the planning and operations of the subdistrict, and the subdistrict advisory board shall make such recommendations to the common sewer district advisory board as the subdistrict board deems advisable with regard to the construction and operation of sewers and facilities in the subdistrict.

(L. 1992 H.B. 948 § 4)

Effective 2-18-92

### **Petition for extension of boundaries, contents--public hearing, notice--decree, filing.**

204.573. A majority of the political subdivisions within a sewer subdistrict formed pursuant to sections 204.565 to 204.573 and entitled to representation on that subdistrict's advisory board under section 204.571, together with the board of trustees of the common sewer district of which the subdistrict is a part, may petition the circuit court in which such subdistrict was formed for extension of the boundaries of such subdistrict and common sewer district within one or more of the political subdivisions or to include all or a part of other political subdivisions, which political subdivisions must also join in such petition. The petition shall state the purposes for which the subdistrict is to be expanded and shall have a map of the subdistrict, including the proposed expansion, attached thereto. The court shall schedule a public hearing and notice shall be afforded in the same manner as provided in section 204.567. If the court shall find such expansion is reasonable or necessary, the court shall enter a decree extending the boundaries of the common sewer district and the sewer subdistrict, declaring such area to be a part of the sewer subdistrict and common sewer district, and approving the map submitted by the petitioners. The decree and map shall then be filed in the same manner as prescribed in section 204.567.

(L. 1992 H.B. 948 § 5)

Effective 2-18-92

## **Reorganization permitted, when.**

204.600. Any common sewer district organized and existing under sections 204.250 to 204.270, and any sewer district organized and existing under chapter 249, RSMo, may be converted to a reorganized common sewer district under the provisions of sections 204.600 to 204.640. In addition, a reorganized common sewer district may be established as provided in sections 204.600 to 204.640. Once established, a reorganized common sewer district shall have all powers and authority of and applicable to a common sewer district organized and existing under sections 204.250 to 204.270 and applicable to a sewer district established under chapter 249, RSMo, which are not inconsistent or in conflict with sections 204.600 to 204.640, provided that no domestic water services shall be provided within the boundaries of an existing public water supply district or within the certificated area of a water corporation as defined in section 386.020, RSMo.

(L. 2007 S.B. 22)

## **Proceedings for reorganization, requirements.**

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

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

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

4. Exceptions to the formation of a district, or to the boundaries outlined in the petition for incorporation, may be made by any voter or property owner within the proposed districts, provided that such exceptions are filed not less than five days prior to the date set for the hearing on the petition. Such exceptions shall specify the grounds upon which the exceptions are being made. If any such exceptions are filed, the court shall take them into consideration in passing upon the petition and also shall consider the evidence in support of the petition and in support of the exceptions made. Should the court find that the petition should be granted but that changes should be made in the boundary lines, it shall make such changes in the boundary lines as set forth in the petition as the court may deem proper and enter its decree of incorporation, with such boundaries as changed. No public sewer district shall be formed under this chapter, chapter 249, RSMo, section 247.035, RSMo, or any sewer district created and organized under constitutional authority, the boundaries of which shall encroach upon the corporate boundaries of any sewer district then existing or upon the certificated boundaries then existing of any sewer corporation providing service under a certificate of convenience and necessity granted by the public service commission. Nor shall any public sewer district extend wastewater collection and treatment services within the boundaries of another district without a written cooperative agreement between such districts or within the certificated boundaries then existing of any sewer corporation providing service under a certificate of convenience and necessity granted by the public service commission without a written cooperative agreement between the public sewer district and the certificated sewer corporation.

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

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

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

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

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

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

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

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

If the petition is filed by a majority of the voters or landowners within the territory proposed to be added to the reorganized sewer district, the publication of notice shall not be required, provided notice is posted in three public places within such territory at least seven days before the date of the hearing, and provided that there is sworn testimony by at least five landowners in such territory, or a majority of the landowners if the total landowners in the area are fewer than ten. Otherwise the procedures for notice substantially shall follow the procedures in subsection 2

of this section for formation. Territory proposed to be added to the reorganized sewer district may be either contiguous or reasonably close to the boundaries of the existing district, provided that it shall not include any territory within the corporate boundaries of any sewer district then existing or within the certificated boundaries then existing of any sewer corporation providing service under a certificate of convenience and necessity granted by the public service commission. Upon the entry of a final judgment declaring the court's decree of territory proposed to be added to the reorganized sewer district to be final and conclusive, the court shall modify or rearrange the boundary lines of the reorganized sewer district as may be necessary or advisable. The costs incurred in the enlargement or extension of the district shall be taxed to the district, if the district is enlarged or extended. Otherwise, such costs shall be paid by the petitioners. However, no costs shall be taxed to the trustees of the district.

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

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

(L. 2007 S.B. 22)

## **Petition requirements.**

204.604. 1. Any existing common sewer district organized and existing under sections 204.250 to 204.270, and any sewer district organized and existing under chapter 249, RSMo, may establish itself as a reorganized common sewer district under sections 204.600 to 204.640 by first filing a petition with the county commission of the county or counties in which it was established to approve its reorganization under sections 204.600 to 204.640 if the governing body of the district has by resolution determined that it is in the best interest of the district to reorganize under sections 204.600 to 204.640. The petition shall be ruled on by that county commission, or each county commission if the district exists in more than one county, within thirty days from the date of hearing the petition. If the petition for the reorganized district is rejected by the county commission or any county commissions in districts existing in more than one county, no further action on the reorganized district shall take place before the county commission or commissions comprising the district or the circuit having jurisdiction over the district court. If approved by the county commission, or each county commission if the district exists in more than one county, such petition shall specify whether the board of trustees shall be appointed by the governing body of the county or elected by the voters of the district. Such petition shall be accompanied by a cash deposit of fifty dollars as an advancement of the costs of the proceeding, and the petition shall be signed by the trustees of the district and shall request the conversion of the district into a reorganized common sewer district.

2. Upon filing, the petition shall be presented to the circuit court, and such court shall fix a date for a hearing on the petition. The clerk of the court shall give notice of the filing of the petition in some newspaper of general circulation within the existing district or closest to the existing district if there is no newspaper of general circulation within the existing district. If the existing district extends into any other county, such notice also shall be published in some newspaper of general circulation in such other county. The notice shall contain a description of the boundary lines of the existing district and the general purposes of the petition. The notice shall set forth the date fixed for the hearing on the petition, which shall not be less than fifteen nor more than twenty-one days after the date of the last publication of the notice and shall be on some regular judicial day of the court where the petition is pending. Such notice shall be signed by the clerk of the circuit court and shall be published in a newspaper of general circulation.

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

4. Exceptions to the conversion of an existing district to a reorganized common sewer district may be made by any voter or property owner within the proposed district, provided that such exceptions are filed not less than five days prior to the date set for the hearing on the petition. Such exceptions shall specify the grounds upon which the exceptions are being made. If any such exceptions are filed, the court shall take them into consideration and shall consider the evidence in support of the petition and in support of the exceptions made. Should the court find that it would not be in the public interest to form such a district, the petition shall be dismissed at the cost of the petitioners. If the court finds that the conversion of the district to a reorganized common sewer district under sections 204.600 to 204.640 is in the best interests of the persons served by the existing district, then the court shall order the district's decree of incorporation amended to permit reorganization under sections 204.600 to 204.640. The existing board of trustees for such district shall continue to serve the reorganized common sewer district until such

time as new trustees shall be appointed or elected as provided for in the court's decree. If their original terms of office are not so designated, the court shall designate such trustees to staggered terms from one to five years, so that one trustee is appointed or elected each year. The trustees appointed by the court shall serve for the terms designated and until their successors are appointed or elected as provided in section 204.610. The decree shall further designate the name of the district by which it officially shall be known.

(L. 2007 S.B. 22)

### **Bonded indebtedness and security interests of creditors, effect of reorganization.**

204.606. The bonded indebtedness or security interest of any creditor of any common sewer district originally organized and existing under sections 204.250 to 204.270 and any sewer district originally organized and existing under chapter 249, RSMo, that convert to a reorganized common sewer district shall not be impaired or affected by such conversion, and all covenants and obligations of such indebtedness shall remain in full force and effect, payable under the terms and conditions that existed without conversion.

(L. 2007 S.B. 22)

### **District a body corporate and politic, when--seal to be adopted--judicial notice of existence, when.**

204.608. 1. When a decree or amended decree of incorporation is issued as provided for in sections 204.600 to 204.640, a reorganized common sewer district shall be considered in law and equity a body corporate and politic and political subdivision of this state, known by the name specified in the court's decree, and by that name and style may sue and be sued, contract and be contracted with, acquire and hold real estate and personal property necessary for corporate purposes, and adopt a common seal. A reorganized common sewer district also shall have exclusive jurisdiction and authority to provide wastewater collection and treatment services within the boundaries of the district with respect to any wastewater service provider authorized to provide sewer services under the laws of this state, except for sewer corporations providing service under a certificate of convenience and necessity granted by the public service commission.

2. All courts in this state shall take judicial notice of the existence of any district organized under sections 204.600 to 204.640.

(L. 2007 S.B. 22)

### **Trustees, appointment, qualifications, compensation, terms.**

204.610. 1. There shall be five trustees, appointed or elected as provided for in the circuit court decree or amended decree of incorporation for a reorganized common sewer district, who shall reside within the boundaries of the district. Each trustee shall be a voter of the district and shall have resided in said district for twelve months immediately prior to the trustee's election or appointment. A trustee shall be at least twenty-five years of age and shall not be delinquent in the payment of taxes at the time of the trustee's election or appointment. Regardless of whether or not the trustees are elected or appointed, in the event the district extends into any county bordering the county in which the greater portion of the district lies, the presiding commissioner or other chief executive officer of the adjoining county shall be an additional member of the board of trustees, or the governing body of such bordering county may appoint a citizen from such county to serve as an additional member of the board of trustees. Said additional trustee shall meet the qualifications set forth in this section for a trustee.

2. The trustees shall receive no compensation for their services but may be compensated for reasonable expenses normally incurred in the performance of their duties. The board of trustees may employ and fix the compensation of such staff as may be necessary to discharge the business and purposes of the district, including clerks, attorneys, administrative assistants, and any other necessary personnel. The board of trustees may employ and fix the duties and compensation of an administrator for the district. The administrator shall be the chief executive officer of the district subject to the supervision and direction of the board of trustees. The administrator of the district may, with the approval of the board of trustees, retain consulting engineers for the district under such terms and conditions as may be necessary to discharge the business and purposes of the district.

3. Except as provided in subsection 1 of this section, the term of office of a trustee shall be five years. The remaining trustees shall appoint a person qualified under this section to fill any vacancy on the board. The initial trustees appointed by the circuit court shall serve until the first Tuesday after the first Monday in June or until the first Tuesday after the first Monday in April, depending upon the resolution of the trustees. In the event that the trustees are elected, said elections shall be conducted by the appropriate election authority under chapter 115, RSMo. Otherwise, trustees shall be appointed by the county commission in accordance with the qualifications set forth in subsection 1 of this section.

4. Notwithstanding any other provision of law, if there is only one candidate for the post of trustee, then no election shall be held, and the candidate shall assume the responsibilities of office at the same time and in the same manner as if elected. If there is no candidate for the post of trustee, then no election shall be held for that post and it shall be considered vacant, to be filled under the provisions of subsection 3 of this section.

(L. 2007 S.B. 22)

### **Levy and collection of taxes permitted, when.**

204.612. The board of trustees of a reorganized common sewer district shall have no power to levy or collect any taxes for the payment of any general obligation bond indebtedness incurred

by the reorganized common sewer district unless the voters of the reorganized common sewer district authorizes the board to incur indebtedness at an election. All expenses and indebtedness incurred by the reorganized common sewer district may be paid from funds that may be received by the reorganized common sewer district from the sale of bonds authorized by the voters of the reorganized common sewer district.

(L. 2007 S.B. 22)

### **Bond requirements--deposit of district moneys.**

204.614. 1. Such bonds shall be signed by the president of the board of trustees and attested by the signature of the secretary of the board of trustees with the seal of the district affixed, if the district has a seal. The interest coupons may be executed by affixing the facsimile signature of the secretary of the district.

2. The moneys of the reorganized common sewer district shall be deposited by the treasurer of the reorganized common sewer district in such bank or banks as shall be designated by order of the board of trustees. The secretary of the reorganized common sewer district shall charge the treasurer, and the moneys shall be drawn from the treasury upon checks or warrants issued by the reorganized common sewer district for the purposes for which the bonds were issued.

(L. 2007 S.B. 22)

### **Powers of the board--industrial user defined.**

204.616. 1. The board of trustees of any reorganized common sewer district shall have power to pass all necessary rules and regulations for the proper management and conduct of the business of the board of trustees and the district, and for carrying into effect the objectives for which the reorganized common sewer district is formed.

2. The board of trustees of a reorganized common sewer district, subject to compliance with the exercise of lawful authority granted to or rules adopted by the clean water commission under section 644.026, RSMo, may exercise primary authority to adopt, modify, and repeal, and to administer and enforce rules and regulations with respect to:

(1) The establishment, construction, reconstruction, improvement, repair, operation, and maintenance of its sewer systems and treatment facilities;

(2) Industrial users discharging into its sewer systems or treatment facilities;

(3) The establishment, operation, administration, and enforcement of a publicly owned treatment works pretreatment program consistent with state and federal pretreatment standards, including inspection, monitoring, sampling, permitting, and reporting programs and activities.

The board of trustees may, in addition to any pretreatment standards imposed under this section, require of any user of its treatment facilities such other pretreatment of industrial wastes as it deems necessary to adequately treat such wastes.

3. The rules and regulations adopted by the board of trustees under subsection 2 of this section shall be applicable and enforceable by civil, administrative, or other actions within any territory served by its sewer systems or treatment facilities and against any municipality, subdistrict, district, or industrial user who shall directly or indirectly discharge sewage or permit discharge of sewage into the district's sewer system or treatment facilities.

4. The authority granted to the board by this section is in addition to and not in derogation of any other authority granted under the constitution and laws of Missouri, any federal water pollution control act, or the rules of any agency of federal or state government.

5. The term "industrial user", as used in this section, shall mean any nondomestic source of discharge or indirect discharge into the district's wastewater system that is regulated under Section 307(b), (c), or (d) of the Clean Water Act, or any source listed in division A, B, D, E, or I of the Standard Industrial Classification Manual, or any solid waste disposal operation such as, but not limited to, landfills, recycling facilities, solid or hazardous waste handling or disposal facilities, and facilities that store or treat aqueous wastes as generated by facilities not located on site and that dispose of these wastes by discharging them into the district's wastewater system.

(L. 2007 S.B. 22)

### **Surveys and general plan for construction, duty of the board--agreements authorized--contracts permitted--additional powers.**

204.618. 1. It shall be the duty of the board of trustees of a reorganized common sewer district to make the necessary surveys and to lay out and define the general plan for the construction and acquisition of land, rights-of-way, and necessary sewers and treatment facilities, and of any extensions, expansions, or improvements within the district.

2. The board of trustees of a reorganized common sewer district may enter into agreements with each municipality, subdistrict, private district, sewer corporation, or any industrial user that discharges sewage into trunk sewers, streams, or the treatment facilities of the reorganized common sewer district concerning the locations and the manner in which sewage may be discharged into the district system or streams within the district and concerning the permissible content of acid wastes, alkaline wastes, poisonous wastes, oils, grit, or other wastes that might be hazardous or detrimental to the system. If no agreement is obtained with regard to any such matter, the trustees shall refer the dispute to the clean water commission. The determination of the commission shall be binding upon the district, municipality, subdistrict, sewer corporation, or private district. Each municipality, subdistrict, sewer corporation, or private district shall control the discharge of wastes into its collection sewers to the extent necessary to comply with the agreement or the determination of the clean water commission. The board of trustees of a reorganized common sewer district or the governing body of any municipality, subdistrict,

private district, sewer corporation, or industrial user discharging sewage into the stream or the system may petition the circuit court that decreed the incorporation of the district for an order enforcing compliance with any provision of such an agreement or determination. That circuit court shall have jurisdiction in all cases or questions arising out of the organization or operations of the district, or from the acts of the board of trustees.

3. The board of trustees may contract with each participating community for the payment of its proportionate share of treatment costs.

4. The board of trustees may contract with public agencies, individuals, private corporations, sewer corporation, and political subdivisions inside and outside the reorganized common sewer district to permit them to connect with and use the district's facilities according to such terms, conditions, and rates as the board determines are in the interest of the district and regardless of whether such agencies, individuals, corporations, sewer corporations, and subdivisions are in the same natural drainage area or basins as the district. However, if such an area is located within the boundaries of an existing common sewer district or reorganized common sewer district organized and existing under this chapter, a sewer district organized and existing under chapter 249, RSMo, a public water supply district organized under chapter 247, RSMo, or a sewer corporation, the board of trustees must give written notice to said district or sewer corporation before such a contract is entered into, and the district or sewer corporation must consent to said contract.

5. The board of trustees may refuse to receive any wastes into the sewage system that do not meet relevant state or federal water pollution, solid waste, or pretreatment standards.

6. The board of trustees shall have all of the powers necessary and convenient to provide for the operation, maintenance, administration, and regulation, including the adoption of rules and regulations, of any individual home sewage or business treatment systems within the jurisdiction of the common sewer district.

7. The board of trustees shall have all of the powers necessary and convenient to provide for the operation and maintenance of its treatment facilities and the administration, regulation, and enforcement of its pretreatment program, including the adoption of rules and regulations to carry out its powers with respect to all municipalities, subdistricts, districts, sewer corporations, and industrial users that discharge into the collection system of the district's sewer system or treatment facilities. These powers include, but are not limited to:

(1) The promulgation of any rule, regulation, or ordinance;

(2) The issuance, modification, or revocation of any order;

(3) The issuance, modification, or revocation of any permit;

(4) Commencing an action through counsel for appropriate legal or equitable relief in the circuit court that decreed the district's incorporation against any industrial user in violation of the district's rules, regulations, and ordinances or any permit or order issued.

8. The board of trustees may adopt rules and regulations creating procedural remedies for all persons affected by any order or permit issued, modified, or revoked by the board including but not limited to the grant of reasonable time periods for such persons to respond and to show cause.

9. Whenever any reference is made in this section to any action that may be taken by the board of trustees, such reference includes such action by its executive officer under powers and duties delegated to such executive officer by the board of trustees.

(L. 2007 S.B. 22)

### **Acquisition of real and personal property--use of public grounds, when.**

204.620. 1. The board of trustees may acquire by purchase, gift, or condemnation or may lease or rent any real or personal property, and when condemnation is used, shall follow the procedure that is provided by chapter 523, RSMo. All the powers may be exercised both within or without the district as may be necessary to exercise its powers or accomplish its purposes. The board of trustees also shall have the same authority to enter upon private lands to survey land or other property before exercise of the above condemnation powers, as granted under section 388.210, RSMo, to railroad corporations.

2. The board of trustees of the reorganized common sewer district, if it is necessary to cross, follow, or traverse public streets, roads, alleys, or grounds held or used as public parks or places, shall have the right to do so upon the following conditions: the board of trustees shall file with the county commission or mayor of the municipality having immediate jurisdiction over the street, road, alley, or public park or place, a map showing the location and extent of the proposed occupancy for sewerage purposes and a plan of the proposed facilities, which plan shall be so made and arranged as not to interfere with the ordinary and lawful use of the street, road, alley, public park, or place, except during a reasonable time for the construction of the necessary works.

3. The entire expense of the works and restoration of the ground occupied to its former condition, as near as may be, shall be borne by the reorganized common sewer district.

(L. 2007 S.B. 22)

### **Treatment plants, contracts for--agreements for professional services.**

204.622. 1. The board of trustees for the reorganized common sewer district shall let contracts for the construction of sewers and sewage treatment plants that will cost more than twenty-five thousand dollars, except in case of repairs or emergencies requiring prompt attention. Notice of the contract bid process shall be published in a newspaper of general circulation in the district. The board shall select the lowest responsible bidder in no less than twenty days following such

publication. The board shall have the power and authority to reject any and all bids and readvertise the work.

2. The board of trustees also shall have the power to enter into agreements with persons or firms to provide professional services to the board, and the board shall adopt policies for procuring the services of such professionals. The provisions of sections 8.285 to 8.291, RSMo, shall be applicable to the services of architects, engineers, and land surveyors unless the board of trustees adopts a formal procedure for the procurement of such services.

(L. 2007 S.B. 22)

### **Costs, how met.**

204.624. The cost of any reorganized common sewer district to acquire, construct, improve, or extend a sewerage system may be met:

- (1) Through the expenditures by the common sewer district of any funds available for that purpose, including temporary or interim financing funds obtained through any federal or state loan program or from a local lending institution;
- (2) From any other funds that may be obtained under any law of the state or of the United States or from any county or municipality for that purpose;
- (3) From the proceeds of revenue bonds of the common sewer district, payable solely from the revenues to be derived from the operation of such sewerage system or from any combination of all the methods of providing funds;
- (4) From the proceeds of general obligation bonds of the reorganized common sewer district, payable solely from voter-approved property taxes as provided for by law;
- (5) From the proceeds of special obligation bonds of the reorganized common sewer district, payable solely from special fees or other revenues received by the district pledged for the purposes of payment of such bonds; or
- (6) From the proceeds of user fees, charges, or other imposition for facilities and services provided by the district to its customers and users or the availability of services provided to persons, users, and customers within the district or who otherwise benefit from services provided by the district.

(L. 2007 S.B. 22)

### **Issuance of revenue bonds, procedure.**

204.626. 1. A reorganized common sewer district may issue revenue bonds authorized by authority of a resolution adopted by the board of trustees of the reorganized common sewer district unless, in addition, the decree or amended decree of incorporation shall require any such bonds to be approved by the voters of the district after an election called for that purpose. The resolution shall recite that an estimate of the cost of the proposed acquisition, construction, improvement, extension, or other project has been made and shall set out the estimated cost. It shall set out the amount of the bonds proposed to be issued, their purposes, their dates, denominations, rates of interest, times of payment, both of principal and of interest, places of payment, and all other details in connection with the bonds.

2. The bonds may be subject to such provision for redemption prior to maturity, with or without premium, and at such times and upon such conditions as may be provided by the board of trustees of the common sewer district.

3. The bonds shall bear interest at a rate in accordance with section 108.170, RSMo, and shall mature over a period not exceeding thirty-five years from the date thereof.

4. The bonds may be payable to bearer, may be registered or coupon bonds, and if payable to bearer may contain such registration privileges as to either principal and interest, or principal only, as may be provided in the resolution authorizing the bonds.

5. The bonds and the coupons to be attached thereto, if any, shall be signed in such manner and by such officers as may be directed by resolution. Bonds signed by an officer who shall hold the office at the time the bonds are signed shall be deemed validly and effectually signed for all purposes, regardless of whether or not any officer shall cease to hold his office prior to the delivery of the bonds and regardless of whether or not any officer shall have held or shall not have held such office on the date ascribed to the bonds.

6. The bonds shall be sold in such manner and upon such terms as the board of trustees of the reorganized common sewer district shall determine, subject to the provisions of section 108.170, RSMo. The resolution may provide that certain bonds authorized shall be junior or subordinate in any or all respects to other revenue bonds authorized concurrently with, prior to, or after such bonds.

(L. 2007 S.B. 22)

### **Fees or charges levied, when due.**

204.628. Any user fees or charges, connection fees, or other charges levied by the reorganized common sewer district to fund its general or special operations, maintenance, or payment of bonded indebtedness or other indebtedness shall be due at such time or times as specified by the reorganized common sewer district, and shall, if not paid by the due date, become delinquent and shall bear interest from the date of delinquency until paid. In addition to and consistent with any other provision of applicable law, if such fees or charges or other amounts due become delinquent, there shall be a lien upon the land, and a notice of delinquency shall be filed with the

recorder of deeds in the county where the land is situated. The reorganized common sewer district shall file with the recorder of deeds a similar notice of satisfaction of debt when the delinquent amounts, plus interest and any recording fees or attorneys' fees, have been paid in full. The lien created may be enforced by foreclosure by power of sale vested in the reorganized common sewer district if the reorganized common sewer district adopts written rules for the exercise of power of sale consistent with the provisions of sections 443.290 to 443.325, RSMo, which are recorded in the land records of the office of the recorder of deeds in each county in which the district is located. Otherwise, such lien shall be enforced by suit in the circuit court having jurisdiction against the property subject to the lien for judicial foreclosure and sale by special execution. Such suit may include a request for judgment against the persons responsible for payment of such delinquency as well as the person or persons owning the property to which services were provided, if different, including post-sale deficiency, and as a part of the relief, may include award of the district's reasonable attorney's fees, court costs, and other expenses reasonably incurred by the district for collection.

(L. 2007 S.B. 22)

### **Revenue bonds, duties of district.**

204.630. It shall be the mandatory duty of any reorganized common sewer district issuing any general or special revenue bonds under sections 204.600 to 204.640 to:

- (1) Fix and maintain rates and make and collect charges for the use and services of the system, for the benefit of which revenue bonds were issued, sufficient to pay the cost of maintenance and operation;
- (2) Pay the principal of and the interest on all revenue bonds issued by the reorganized common sewer district chargeable to the revenues of the system; and
- (3) Provide funds ample to meet all valid and reasonable requirements of the resolution by which the revenue bonds have been issued.

From time to time, the rates shall be revised to meet fully the requirements of sections 204.600 to 204.640. As long as any bond issued or the interest thereon shall remain outstanding and unpaid, rates and charges sufficient to meet the requirements of this section shall be maintained and collected by the reorganized common sewer district that issued the bonds.

(L. 2007 S.B. 22)

### **Revenue bonds, net revenues to be pledged.**

204.632. 1. Whenever any reorganized common sewer district authorizes and issues revenue bonds under sections 204.600 to 204.640, an amount sufficient for the purpose of the net revenues of the sewerage system for the benefit of which the bonds are issued shall, by operation

of sections 204.600 to 204.640, be pledged to the payment of the principal of and the interest on the bonds as the same shall mature and accrue.

2. The term "net revenues" means all income and revenues derived from the ownership and operation of the system less the actual and necessary expenses of operation and maintenance of the system.

3. It shall be the mandatory duty of the treasurer of the reorganized common sewer district to provide for the prompt payment of the principal and interest on any revenue bonds as they mature and accrue.

(L. 2007 S.B. 22)

### **Resolution authorizing revenue bonds--accounts.**

204.634. 1. The resolution of the board of trustees of the reorganized common sewer district authorizing the issuance of revenue bonds under the authority of sections 204.600 to 204.640 may provide that periodic allocations of the revenues to be derived from the operation of the system for the benefit of which the bonds are issued shall be made into such accounts, separate and apart from any other accounts of the district, as shall be deemed to be advisable to assure the proper operation and maintenance of the system and the prompt payment of the indebtedness chargeable to the revenues of the system. The accounts may include, but shall not be limited to:

- (1) An account to provide funds to operate and maintain the system;
- (2) An account to provide funds to pay principal and interest on the bonds as they come due;
- (3) An account to provide an adequate reserve for depreciation, to be expended for replacements of the system;
- (4) An account for the accumulation of a reserve to assure the prompt payment of the bonds and the interest whenever and to the extent that other funds are not available for that purpose;
- (5) An account to provide funds for contingent expenses in the operation of the system;
- (6) An account to provide for the accumulation of funds for the construction of extensions and improvements to the system; and
- (7) Such other accounts as may be desirable in the judgment of the board of trustees.

2. The resolution also may establish such limitations as may be expedient upon the issuance of additional bonds, payable from the revenues of the system, or upon the rights of the holders of such additional bonds. Such resolution may include other agreements with the holders of the bonds or covenants or restrictions necessary or desirable to safeguard the interests of the bondholder and to secure the payment of the bonds and the interest thereon.

(L. 2007 S.B. 22)

### **Issuance of refunding bonds, when.**

204.636. For the purpose of refunding, extending, and unifying the whole or any part of any valid outstanding bonded indebtedness payable from the revenues of a sewerage system, any reorganized common sewer district may issue refunding bonds not exceeding in amount the principal of the outstanding indebtedness to be refunded and the accrued interest to the date of the refunding bonds. The board of trustees of the reorganized common sewer district shall provide for the payment of interest which shall not exceed the same rate and the principal of the refunding bonds in the same manner and from the same source as was provided for the payment of interest on and principal of the bonds to be refunded.

(L. 2007 S.B. 22)

### **Grants or funds from state or federal government, trustees to accept.**

204.638. The board of trustees of the reorganized common sewer district may apply for and accept grants or funds and material or labor from the state and federal government in the construction of a sewerage system, as provided by sections 204.600 to 204.640, and may enter into such agreements as may be required of the state or federal laws, or the rules and regulations of any federal or state department, to which the application is made, and where the assistance is granted.

(L. 2007 S.B. 22)

### **Courts and officers of political subdivisions to cooperate with district.**

204.640. It shall be the duty of the mayors of cities, the circuit court, the governing bodies of counties, all political subdivisions, and all assessors, sheriffs, collectors, treasurers, and other officials in the state of Missouri to do and perform all the acts and to render all the services necessary to carry out the purposes of sections 204.600 to 204.640.

(L. 2007 S.B. 22)

### **Citation of law--definitions.**

204.650. Sections 204.650 to 204.672 shall be known and may be cited as the "Sanitary Sewer Improvement Area Act", and the following words and terms, as used in these sections, mean:

(1) "Acquire", the acquisition of property or interests in property by purchase, gift, condemnation, or other lawful means and may include the acquisition of existing property and improvements already owned by the district;

(2) "Assess or assessment", a unit of measure to allocate the cost of an improvement among property or properties within a sanitary sewer improvement area based on an equitable method of determining benefits to any such property resulting from an improvement;

(3) "Consultant", engineers, architects, planners, attorneys, financial advisors, accountants, investment bankers, and other persons deemed competent to advise and assist the governing body of the district in planning and making improvements;

(4) "Cost", all costs incurred in connection with an improvement, including but not limited to costs incurred for the preparation of preliminary reports, preparation of plans and specifications, preparation and publication of notices of hearings, resolutions, ordinances, and other proceedings, fees, and expenses of consultants, interest accrued on borrowed money during the period of construction, underwriting costs, and other costs incurred in connection with the issuance of bonds or notes, establishment of reasonably required reserve funds for bonds or notes, the cost of land, materials, labor, and other lawful expenses incurred in planning, acquiring, and doing any improvement, reasonable construction contingencies, and work done or services performed by the district in the administration and supervision of the improvement;

(5) "District or common sewer district", any public sanitary sewer district or reorganized common sewer district established and existing under this chapter or chapter 249, RSMo, and any metropolitan sewer district organized under the constitution of this state;

(6) "Improve", to construct, reconstruct, maintain, restore, replace, renew, repair, install, equip, extend, or to otherwise perform any work that will provide a new sanitary sewer facility or enhance, extend, or restore the value or utility of an existing sanitary sewer facility;

(7) "Improvement", any one or more sanitary sewer facilities or improvements that confer a benefit on property within a definable area and may include or consist of a reimprovement of a prior improvement. Improvements include but are not limited to the following activities:

(a) To acquire property or interests in property when necessary or desirable for any purpose authorized by sections 204.650 to 204.672;

(b) To improve sanitary sewers, wastewater treatment plants, lagoons, septic tanks and systems, and any and all other sanitary sewer and wastewater collection and treatment systems of any type, whether located on improved or unimproved public or private property, the general object and nature of which will either preserve, maintain, improve, or promote the general public health, safety, and welfare, or the environment, regardless of technology used;

(8) "Sanitary sewer improvement area", an area of a district with defined limits and boundaries that is created by petition under sections 204.650 to 204.672 and that is benefited by an improvement and subject to assessments against the real property for the cost of the

improvement, provided that no such improvement area shall include any real property within the certificated boundaries of any sewer corporation providing service under a certificate of convenience and necessity granted by the public service commission;

(9) "User fee", a fee established and imposed by a district to pay an assessment, in periodic installments, for improvements made in a sanitary sewer improvement area that benefit the property within such area that is subject to the assessment.

(L. 2007 S.B. 22)

### **Improvements may be made--issuance of revenue bonds--assessments.**

204.652. As an alternative to all other methods provided by law or charter, the governing body of any sewer district or reorganized sewer district organized and operated under this chapter or chapter 249, RSMo, or any metropolitan sewer district organized under the constitution of this state, may make, or cause to be made, improvements that confer a benefit upon property within a sanitary sewer improvement area under sections 204.650 to 204.672. The governing body of such district may issue temporary notes and revenue bonds under sections 204.650 to 204.672 to pay for all or part of the cost of such improvements. An improvement may be combined with one or more other improvements for the purpose of issuing a single series of revenue bonds to pay all or part of the cost of the sanitary sewer improvement area's improvements, but separate funds or accounts shall be established within the records of the district for each improvement project as provided in sections 204.650 to 204.672. Such district shall make assessments and may impose user fees on the property located within the sanitary sewer improvement area, in addition to any other fees or charges imposed by the district to provide services or pay debt. The district shall use the moneys collected from such assessments and user fees from a sanitary sewer improvement area to reimburse the district for all amounts paid or to be paid by it as principal of and interest on its temporary notes and revenue bonds issued for the improvements made in the sanitary sewer improvement area.

(L. 2007 S.B. 22)

### **Establishment of area, procedure.**

204.654. 1. To establish a sanitary sewer improvement area, the governing body of the sewer district shall comply with the following procedure: the governing body of the district may create a sanitary sewer improvement area when a proper petition has been signed by the owners of record of four-sevenths of the property within the proposed sanitary sewer improvement area. The petition, in order to become effective, shall be filed with the district. A proper petition for the creation of a sanitary sewer improvement area shall set forth the project name for the proposed improvement, the general nature of the proposed improvement, the estimated cost of such improvement, the boundaries of the proposed sanitary sewer improvement area, the proposed method or methods of financing the project, including the estimated amount of and method for imposing user fees against the real property within the sanitary sewer improvement

area to pay for the cost of the improvements and any bonds issued, a notice that the names of the signers may not be withdrawn later than seven days after the petition is filed with the district, and a notice that the final cost of such improvement and the amount of revenue bonds issued shall not exceed the estimated cost of such improvement, as stated in such petition, by more than twenty-five percent.

2. Upon filing a proper petition with the district, the governing body may, by resolution, determine the advisability of the improvement and may order that the area be established and that preliminary plans and specifications for the improvement be made. Such resolution shall state and make findings as to the project name for the proposed improvement, the nature of the improvement, the estimated cost of such improvement, the boundaries of the sanitary sewer improvement area, the proposed method or methods of imposing assessments and, if known, proposed estimated user fees within the district. The resolution also shall state that the final cost of such improvement within the sanitary sewer improvement area and the amount of revenue bonds issued shall not, without a new petition, exceed the estimated cost of such improvement by more than twenty-five percent.

3. The boundaries of the proposed area shall be described by bounds, streets, or other sufficiently specific description.

(L. 2007 S.B. 22)

### **Costs apportioned against property.**

204.656. The portion of the cost of any improvement to be assessed or imposed against the real property in a sanitary sewer improvement area shall be apportioned against such property in accordance with the benefits accruing by reason of such improvement. Subject to the provisions of the farmland protection act, sections 262.800 to 262.810, RSMo, the cost may be assessed equally by lot or tract against property within the area, or by any other reasonable assessment plan determined by the governing body of the district that results in imposing substantially equal burdens or share of the cost upon property similarly benefited. The governing body of the district may from time to time determine and establish by resolution reasonable general classifications and formula for the methods of assessing or determining the benefits.

(L. 2007 S.B. 22)

### **Assessments required, roll to be prepared.**

204.658. 1. After the governing body has made the findings specified in sections 204.650 to 204.672 and plans and specifications for the proposed improvements have been prepared, the governing body shall by resolution order assessments to be made against each parcel of real property deemed to be benefited by an improvement based on the revised estimated cost of the improvement or, if available, the final cost, and shall order a proposed assessment roll to be prepared.

2. The plans and specifications for the improvement and the proposed assessment roll shall be filed with the district and shall be open for public inspection. Such district shall, at the direction of the governing body, publish notice that the governing body will conduct a hearing to consider the proposed improvement and proposed assessments. Such notice shall be published in a newspaper of general circulation at least once not more than twenty days and not less than ten days before the hearing and shall state the project name for the improvement, the date, time, and place of such hearing, the general nature of the improvement, the revised estimated cost or, if available, the final cost of the improvement, the boundaries of the sanitary sewer improvement area to be assessed, and that written or oral objections will be considered at the hearing. Not less than ten days before, the district shall mail to the owners of record of the real property in the sanitary sewer improvement area, at their last known post office address, a notice of the hearing and a statement of the cost proposed to be assessed against the real property so owned and assessed. The failure of any owner to receive such notice shall not invalidate the proceedings.

(L. 2007 S.B. 22)

### **Hearing, procedure--notice to property owners--special assessments.**

204.660. 1. At the hearing to consider the proposed improvements and assessments, the governing body shall hear and pass upon all objections to the proposed improvements and proposed assessments, if any, and may amend the proposed improvements, and the plans and specifications, or assessments as to any property, and thereupon by resolution, the governing body shall order that the improvement be made and direct that financing for the cost be obtained as provided in sections 204.650 to 204.672.

2. After the improvement has been completed in accordance with the plans and specifications, the governing body shall compute the final costs of the improvement and apportion the costs among the property benefited by such improvement in such equitable manner as the governing body shall determine, charging each tract, lot, or parcel of property with its proportionate share of the costs, and by resolution, assess the final cost of the improvement, or the amount of revenue bonds issued or to be issued to pay for the improvement, as special assessments against the property described in the assessment roll.

3. After the passage or adoption of the resolution assessing the special assessments, the district shall mail to each property owner within the district a notice that sets forth a description of each owner's tract, lot, or parcel of real property to be assessed, the assessment assigned to such property, and a statement that the property owner may pay such assessment in full, together with interest accrued from the effective date of such resolution, on or before a specified date determined by the effective date of the resolution, or may pay such assessment in the form of user fees in periodic installments as provided in subsection 4 of this section. Notice of each assessment and imposition of the assessment lien, together with a legal description for each property assessed within the area, shall be filed with the recorder of deeds upon the effective date of the resolution. However, failure to record any such notice in a timely manner shall not affect the validity of the assessments or liens. The district shall record written notice of release of lien

whenever an assessment is paid in full. The cost of recording assessment notices and release of liens shall be includable in the assessment.

4. The special assessments shall be assessed upon the property within the area. Those not paid in full as provided in subsection 3 of this section shall be payable in the form of user fees payable in periodic and substantially equal installments, as determined by the district, for a duration prescribed by the resolution establishing the special assessments. All assessments shall bear interest at such rate as the governing body determines, not to exceed the rate permitted for bonds by section 108.170, RSMo. Interest on the assessment between the effective date of the resolution assessing the special assessments and the date the first installment of a user fee is payable shall be added to the first installment or prorated among all scheduled installments.

5. Assessments not paid in full shall be collected and paid over to the district in the form of user fees in the same manner as other district fees and charges are collected and paid, or by any other reasonable method determined by the district.

(L. 2007 S.B. 22)

### **Court action, limitation.**

204.662. No suit to set aside the assessments made under sections 204.680 to 204.730\*, or to otherwise question the validity of the proceedings, shall be brought after the expiration of ninety days from the date the notice is mailed to the last known owners of record of the assessments required by subsection 3 of section 204.660.

(L. 2007 S.B. 22)

\*Sections 204.680 to 204.730 do not exist.

### **Supplemental or additional assessments permitted, when--reassessment or new assessment required, when.**

204.664. 1. To correct omissions, errors, or mistakes in the original assessment that relate to the total cost of an improvement, the governing body of the district may, without a notice or hearing, make supplemental or additional assessments on property within a sanitary sewer improvement area, except that such supplemental or additional assessments shall not, without a new petition as provided in sections 204.650 to 204.672, exceed twenty-five percent of the estimated cost of the improvement as set forth in the petition under the provisions of sections 204.650 to 204.672.

2. When an assessment is, for any reason whatsoever, set aside by a court of competent jurisdiction as to any property, or in the event the governing body finds that the assessment or any part thereof is excessive or determines on advice of counsel in writing that it is or may be invalid for any reason, the governing body may, upon notice and hearing as provided for the original assessment, make a reassessment or a new assessment as to such property.

### **Assessment to constitute a lien, when.**

204.666. An assessment authorized under sections 204.650 to 204.672, once determined and imposed, shall constitute a lien against such property until paid in full and shall not be affected by the existence or enforcement of any other liens or encumbrances, nor shall enforcement of an assessment lien have any effect on the validity or enforcement of any tax lien or lien established by mortgage or deed of trust. An assessment lien becomes delinquent when an assessment is not paid in full as prescribed by sections 204.650 to 204.672, or when one or more periodic installments imposed by the district for an assessment remain unpaid for a period of thirty days or more after notice of delinquency in payment is mailed to the last known owners of the property subject to assessment by regular United States mail and by certified mail, return receipt requested, at their last known address, provided by such owners to the district and to the occupant of property that is subject to assessment, if different from that of the owners. In the event any such user fee remains unpaid after thirty days of the mailing of any such notice, and in addition to any other remedy the district may have by statute or duly enacted regulation for the collection of delinquent amounts owed to the district, the district shall be entitled to petition the circuit court having jurisdiction to foreclose upon the assessment lien by special execution sale of the property subject to the assessment for the unpaid assessment plus reasonable attorney's fees, court costs, and other reasonable costs incurred by the district in collection. In any such suit, the district shall name all parties appearing of record to have or claim an interest in the property subject to the unpaid assessment and shall file a notice of lis pendens in connection with said action. In addition, the district may obtain a judgment against last known owners of the property for any deficiency in payment of the assessment and costs and fees made a part of the court's judgment.

### **Temporary notes authorized, when.**

204.668. After an improvement has been authorized under sections 204.650 to 204.672, the governing body of the district may issue temporary notes of the district to pay the costs of such improvement in an amount not to exceed the estimated cost of such improvement. Such temporary notes may be issued in anticipation of issuance of revenue bonds of the district. The district may participate in any governmentally sponsored bond pooling program or other bond program. Bonds may be issued and made payable from special assessments paid in the form of user fees under subsection 4 of section 204.660 and other revenues of the district.

### **Funds required.**

204.670. A separate fund or account shall be created by the district for each improvement project, and each such fund or account shall be identified by a suitable title. The proceeds from the sale of bonds and temporary notes and any other moneys appropriated thereto by the governing body of the district shall be credited to such funds or accounts. Such funds or accounts shall be used solely to pay the costs incurred in making each respective improvement. Upon completion of an improvement, the balance remaining in the fund or account established for such improvement, if any, may be held as contingent funds for future improvements or may be credited against the amount of the original assessment of each parcel of property, on a pro rata basis based on the amount of the original assessment, and with respect to property owners that have prepaid their assessments in accordance with sections 204.650 to 204.672, the amount of each such credit shall be refunded to the appropriate property owner. With respect to all other property owners, the amount of each such credit shall be transferred and credited to the district bond and interest fund to be used solely to pay the principal of and interest on the bonds or temporary notes, and the assessments shall be reduced accordingly by the amount of such credit.

(L. 2007 S.B. 22)

### **Cooperative agreements authorized, when.**

204.672. Any public sanitary sewer district or reorganized sewer district organized and operated under this chapter or chapter 249, RSMo, and any metropolitan sewer district organized under the constitution of this state, may enter into a cooperative agreement with a city or county for the purpose of constructing sanitary sewer system improvements under the provisions of the neighborhood improvement district act, sections 67.453 to 67.475, RSMo. Any such cooperative agreement, if approved by the governing bodies of the district and city or county, may include provisions for joint administration of projects for the issuance of temporary notes and general obligation bonds by district, city, or county, separately or jointly, and for the payment of such bonds by any source of funds or user fees in addition to funds from special assessments as provided for in sections 67.453 to 67.475, RSMo, and general ad valorem taxes, so long as all terms, conditions, and covenants of any applicable bond resolution or ordinance are complied with and so long as said notes and bonds are issued in compliance with general applicable law.

(L. 2007 S.B. 22)

### **Inapplicability.**

204.674. The provisions of sections 204.600 to 204.672 shall not apply to the provisions in section 204.472, any city not within a county and any county with a charter form of government and with more than one million inhabitants, any sewer district created and organized under constitutional authority, any sewer district located in any county with a charter form of government and with more than six hundred thousand but fewer than seven hundred thousand inhabitants that provides wholesale sewer service.

(L. 2007 S.B. 22)

**No fee, charge, or tax to be assessed, when.**

204.700. No person who owns real property that is used for residential purposes within the boundaries of any district created under section 30 of article VI of the Missouri Constitution shall be assessed any fee, charge, or tax for storm water management services if the district does not directly provide sanitary sewer services to such property and if the storm water runoff from such person's property does not flow, or is not otherwise conveyed, to a sewer maintained by such district.

(L. 2009 H.B. 661 § 204.659)

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