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Revisor of Statutes

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242.010. Owner defined — delegation of representation and voting rights. —

1. The word "owner" as used in sections [242.010 to 242.690](#) shall mean the owner of the freehold estate, as appears by the deed record, and it shall not include reversioners, remaindermen, trustees, or mortgagees, who shall not be counted and need not be notified by publication, or served by process, but shall be represented by the present owners of the freehold estate in any proceeding under said sections.

2. Owners of property, located in whole or in part within the drainage district and owned by a corporation, partnership, joint venture, or any other form of ownership other than individual ownership, may delegate through procedures allowed as provided by the laws of this state an individual to exercise representation and voting on behalf of the corporation, partnership, joint venture, or other entity in matters requiring public vote involving the drainage district. For purposes of drainage districts organized pursuant to the laws of this state, any individual so recognized by the corporation, partnership, joint venture, or other entity as having the responsibilities of representing the property owner before the board of supervisors of the drainage district shall in all respects be treated by laws of this state as the owner of the property, and shall be entitled to all benefits and privileges allowed by law, including serving on the board of supervisors if so elected.

(RSMo 1939 § 12364, A.L. 2002 S.B. 941)

Prior revisions: 1929 § 10783; 1919 § 4415

(1953) Corporate holder of an easement in land held to be owner within this section so as to be entitled to notice under §§ 242.020 and 242.030. *Farmers Drainage Dist. v. Sinclair Refining Co. (Mo.)*, 255 S.W.2d 745.

8/28/2002

242.020. Formation of drainage districts. — 1. The owners of a majority of the acreage in any contiguous body of swamp, wet or overflowed lands, or lands subject to overflow, situate in one or more counties in this state, may form a drainage district for the purpose of having such lands and other property reclaimed and protected from the effects of water, for sanitary or agricultural purposes, or when the same may be conducive to the public health, convenience or welfare, or of public utility or benefit,

by drainage or otherwise, and for that purpose they may make and sign articles of association, in which shall be stated: The name of the district, and the number of years the same is to continue; the boundary lines of the proposed drainage district; the names of the owners of lands or other property in said district, together with a description of the lands and other property owned by each; when the name of the owner of any of said lands or other property is unknown, this fact shall be set out in said articles; said articles shall further state that the owners of real estate and other property within said district whose names are subscribed to said articles are willing to and do obligate themselves to pay the tax or taxes which may be assessed against their respective lands or other property to pay the expense of organizing and of making and maintaining the improvements that may be necessary to effect the reclamation of said lands and other property, so formed into a drainage district, and to drain and to protect the same from the effects of water, and said articles of association shall contain a prayer, praying that the lands and other property described therein be declared a drainage district under the provisions of sections [242.010](#) to [242.690](#).

2. After said articles of association and petition have been so signed the same shall be filed in the office of the circuit clerk of the county in which such lands and other property are situate; or, if such lands and other property be composed of tracts or parcels situate in two or more different counties then in the office of the clerk of the circuit court of the county in which there are situate more of said lands and other property than in any other county.

(RSMo 1939 § 12324)

Prior revisions: 1929 § 10743; 1919 § 4378; 1909 § 5496

(1953) Where articles of association did not describe easement owned by corporation and named its owner and notice described only servient land through which easement ran, assessment of benefits against easement held improper. *Farmers Drainage Dist. v. Sinclair Refining Co. (Mo.)*, 255 S.W.2d 745.

8/28/1939

242.030. Notice of application — form. — 1. Immediately after such articles of association shall have been filed, the clerk in whose office the articles of association have been filed shall give notice by causing publication to be made once a week for four consecutive weeks in some newspaper published in each county in which are situate lands and other property of the district, the last insertion to be made at least fifteen days prior to the first day of the next regular term of the circuit court at which said articles of association and petition are to be heard; said notice shall be

substantially in the following form and it shall be deemed sufficient for all purposes of sections [242.010](#) to [242.690](#):

NOTICE OF APPLICATION TO FORM DRAINAGE DISTRICT.

Notice is hereby given to all persons interested in the following described real estate and other property in _____ County of Missouri (here describe the property as set out in the articles of association) that articles of association asking that the foregoing lands and other property be formed into a drainage district under the provisions of chapter 242, and that the lands and other property as above described will be affected by the formation of said drainage district and be rendered liable to taxation for the purposes of paying the expenses of organizing and making and maintaining the improvements that may be found necessary to drain, protect and reclaim the lands and other property in said district, and you, and each of you, are hereby notified to appear at a session of this court to be held on the _____ day of _____, 20_____, at _____ in _____ County, and show cause, if any there be, why said drainage district as set forth in the articles of association shall not be organized as a public corporation of the state of Missouri.

Clerk of the circuit court of _____ County.

2. The circuit court of the county in which said articles of association have been filed shall thereafter maintain and have original and exclusive jurisdiction coextensive with the boundaries and limits of said district without regard to county lines, for all purposes of sections [242.010](#) to [242.690](#); provided, that where lands in different counties are sought to be incorporated in the same district, it shall not be necessary to include all of the lands and other property in said proposed drainage district in the notice published in the different counties, but only such lands and other property in the district as are situate in the respective counties.

(RSMo 1939 § 12325, A.L. 1978 H.B. 1634)

Effective 1-2-79

1/2/1979



242.040. Objections — procedure. — 1. Any owner of real estate or other property in said proposed district, who may not have signed said articles of association, objecting to the organization and incorporation of said drainage district, shall, on or

before the first day of the term of court at which the cause is to be heard, file his objection or objections why such drainage district should not be organized and incorporated. Such objection or objections shall be limited to a denial of the statements in the articles of association, and shall be heard by the court in a summary manner, without unnecessary delay, and in case all such objections are overruled, the circuit court shall by its order, duly entered of record, duly declare and decree said drainage district a public corporation of this state, for a term not exceeding the time mentioned in said articles of association signed and filed. If the court finds that the property set out in said articles of association should not be incorporated into a drainage district, it shall dismiss said proceedings and adjudge the costs against the signers of said articles of association in proportion to the acreage represented by each.

2. Any person having signed the articles of association shall have no right to have said proceedings dismissed as to him without the written consent of the majority in acreage of the owners who signed said articles. The articles of association may be amended as any other pleading.

3. Within sixty days after the said district has been declared a corporation by the court, the clerk thereof shall transmit to the secretary of state a certified copy of the findings and decree of the court incorporating said district, and the same shall be filed in the office of the secretary of state in the same manner as articles of incorporation are now required to be filed under the general law concerning corporations.

4. A copy of said findings and decree, together with a plat of the district, shall also be filed in the office of the county recorder in each of the counties having lands and other property in said district, where the same shall become a permanent record, and each such recorder shall receive a fee of one dollar for filing and preserving the same.

(RSMo 1939 § 12326)

Prior revisions: 1929 § 10745; 1919 § 4380; 1909 § 5499

8/28/1939

242.050. Annexation of land to organize district. — 1. The board of supervisors of any drainage district organized under the provisions of sections [242.010](#) to [242.690](#), for and in its behalf, or the owners of a majority of the acres in any tract or tracts of swamp, wet or overflow lands or lands subject to overflow lying adjacent to such district, or having an outlet in common with lands in the district, shall have the right to file a petition in the office of the clerk of the court organizing such district, asking that the boundary lines of such district be changed or extended so as to annex and include such lands. Said petition shall describe the boundary lines of the tract or tracts sought

to be annexed and state the names of the owners of such tracts together with descriptions of tracts owned by each; when the name or names of any owner or owners of any such lands or other property are unknown this fact shall be set out in said petition.

2. As soon as said petition has been filed the clerk of the court shall give notice of such filing by causing publication to be made once a week for four consecutive weeks in some newspaper published in each county in which any part of the lands sought to be annexed are situate; said notice need not contain the names of the owners of said lands and other property or descriptions of tracts owned by each, but it will be sufficient to describe said lands by sections and parts of sections; the notice shall state the purpose of the petition, that the lands will be rendered liable to taxation to pay the cost of making and maintaining the improvement found necessary to drain and reclaim said lands, and that any owner of said lands shall have the right to file objections to said petition on or before fifteen days after the last publication of the notice, which said date of filing objections shall be stated in said notice.

3. Any owners of land, or other property sought to be annexed, not petitioning, or the board of supervisors of the district, if not petitioning, shall have the right to file objections within fifteen days after the last publication of the notice herein provided for but not thereafter, setting out why said petition should not be granted. Such objection shall be limited to a denial of the statements in the petition and shall be heard and determined by the court as early and speedily as possible, at either a regular, adjourned or special term, and the court shall annex all lands and other property described in the petition that are found to be swamp, wet or overflow lands or lands subject to overflow, or lands having an outlet in common with lands in the district.

4. After such extension or extensions have been made, the board of supervisors of the district shall proceed to reclaim the lands and other property in the district as enlarged, by either constructing and putting into force or completing the improvements set out in the plan for reclamation already adopted or to be adopted, or by formulating and adopting enlargements, additions and extensions to drains, channels, levees or other improvements in the plan already adopted, and thereafter the same shall be proceeded with in the same manner or as nearly as possible, as provided by sections [242.010](#) to [242.690](#).

5. Any petition filed under this section, all maps, profiles and reports of the chief engineer of such district, and records of the board shall be deemed prima facie evidence in all proceedings under this section as to all facts therein. The term "**lying**

adjacent to the district" as used herein shall be construed by the courts to mean situate nearby or in the vicinity of any drainage district, or touching such district in part or in whole.

6. Any owner of lands or other property, or the board of supervisors, for and on behalf of the district, shall have the right to appeal from the finding or decree of the court extending or refusing to extend the boundary lines of such district, said appeal to be prosecuted the same as provided for appeals under the civil code.

7. The amendments contained herein are declared to be remedial in character, shall be liberally construed by the courts promptly and shall apply to districts already organized, in process of organization or to be hereafter organized by circuit courts of this state.

(RSMo 1939 § 12365)

Prior revisions: 1929 § 10784; 1919 § 4416

8/28/1939

242.060. Consolidation of adjacent districts. — 1. Any two or more adjacent districts, whether incorporated in the same or different counties, may be united and consolidated in one district, and such new district and the board of supervisors thereof shall have the rights, powers and privileges of any districts organized under sections [242.010](#) to [242.690](#).

2. In order to effect such consolidation, the board of supervisors of each of the original districts shall call an election in the same manner as elections for supervisors, stating the time, place and object of such election. If a majority of the acreage voting in each district vote in favor of the proposition to unite and consolidate such districts, the board of supervisors of each district shall present a petition to the circuit court of the county in which the greatest amount of the land is located, accompanied with a complete return of said election, in which petition shall be stated the name of the original district, when incorporated, the names of the owners of the lands and the boundaries of the district.

3. When said petition has been filed the circuit clerk shall give notice of such filing in the manner provided for giving notice in section [242.030](#), said notice to state the contents of said petition and the objects sought and the date on which said matter is to be heard.

4. Any person owning land in either of said districts, on or before the date set out in the notice on which said matter is set to be heard may file objections to the regularity

or sufficiency of any of the proceedings had in the premises, and if such objections are overruled, or if no objections are made, the court shall make an order that any two or more of the several districts so asking to be united shall be united and consolidated as one district, under some appropriate designation, with all the rights, powers and privileges of such districts organized under sections [242.010 to 242.690](#) and, except as hereinafter provided, the lands so included in the new district shall be subject to all liens, liabilities and obligations of the original districts, and a new board of supervisors shall be elected, as is now provided in case of election of supervisors, and all orders made in regard to extension of time, boundaries or uniting districts shall be spread on the records of the circuit court, and a certified copy thereof shall be filed with the recorder of deeds of each county in which any of such land is located, and also with the secretary of state, and said recorder shall receive a fee of one dollar for filing and preserving such certificate; provided, however, that if any district included in any consolidated district shall have issued bonds which are outstanding at the time of such consolidation, the taxes levied to pay such bonds and the interest thereon shall be an obligation of only the property within such component district.

(RSMo 1939 § 12372, A.L. 1959 H.B. 312)

Prior revisions: 1929 § 10791; 1919 § 4421; 1909 § 5501

CROSS REFERENCE:

Consolidation of adjoining districts and reorganization under Chap. 242, 243.450

8/28/1959



242.070. Reorganization of districts. — Any drainage district of Missouri heretofore organized, in process of organization or that may hereafter be organized under the provisions of any previous or existing laws of this state, either general or special, may elect in the manner herein provided to become and be reorganized under the provisions of sections [242.010 to 242.690](#); provided, that such reorganization shall not be required of districts heretofore organized or in process of organization at the time of passage of this law under the provisions of article 1, [chapter 41](#), of the Revised Statutes of 1909, but all such districts shall have the right to proceed under the provisions of said sections.

(RSMo 1939 § 12379)

Prior revisions: 1929 § 10798; 1919 § 4428

8/28/1939

242.080. Reorganized districts — articles of association. — 1. Any drainage district heretofore organized and any district that is now in process of organization or any drainage district that may hereafter be organized under any previous or existing law of this state may organize under the provisions of sections [242.010 to 242.690](#), and after so organized shall be entitled to the benefits of all of the provisions of said sections and any or all laws amendatory hereof.

2. The owners of a majority of acreage of any existing drainage district may make and sign articles of association in which shall be stated: The name of the district, which shall be the same as the name it bears when such articles of association are made, and the number of years such district is to continue, which shall in no event be for fewer years than the life of any of its existing obligations. Such articles shall also state that the boundaries of the district will be the same as the boundaries of the present organization and that the description of the land and other property and the owners thereof are such as are described in the present record of the district as now organized and said articles of association shall contain a petition, praying that the lands of said drainage district be declared a drainage district under the provisions of said sections.

3. After such articles of association have been so signed, the same shall be filed in the office of the clerk of the circuit court of the county in which such lands are situate, or, if such lands be situate in two or more counties, then in the office of the clerk of the circuit court of the county in which there are situate more of said lands than in any other county.

(RSMo 1939 § 12380)

Prior revisions: 1929 § 10799; 1919 § 4429

8/28/1939

242.090. Notice of reorganization hearing — form. — Immediately after such articles of association have been filed the circuit clerk in whose office the same have been filed shall give notice in the manner and for the time specified in section [242.030](#), said notice to be in substantially the following form, which shall be deemed sufficient for all the purposes of sections [242.010 to 242.690](#):

NOTICE FOR HEARING OF PETITION FOR
REORGANIZATION OF _____ DRAINAGE DISTRICT.

Notice is hereby given to owners of land and other property in
" _____ drainage district" of Missouri that articles of association
have been filed in this office, asking that said drainage district

be reorganized under the provisions of sections 242.010 to 242.690, and that you and each of you are notified to appear at a session of this court to be held on _____ day of _____, 20_____, at _____ in _____ county and show cause, if any there be, why said drainage district as set forth in said articles of association should not be reorganized as a public corporation under said law.

Clerk of the circuit court of _____ County.

The circuit court of the county in which said articles of association have been filed shall thereafter maintain and have original and exclusive jurisdiction coextensive with the boundaries and limits of said district without regard to county lines for all purposes of said sections; provided, that where lands in different counties are sought to be incorporated in the same district, it shall not be necessary to include all of the lands in said proposed drainage district in the notice published in the different counties, but only such lands and other property in the district as are situate in the respective counties.

(RSMo 1939 § 12381, A.L. 1978 H.B. 1634)

Prior revisions: 1929 § 10800; 1919 § 4430

Effective 1-2-79

1/2/1979



242.100. Procedure after notice of reorganization. — After said notice has been so given the matter shall be proceeded with in the same manner as is provided for where articles of association for the formation of a drainage district have been filed.

(RSMo 1939 § 12382)

Prior revisions: 1929 § 10801; 1919 § 4431

8/28/1939

242.110. Records and funds delivered to secretary of board. — Immediately after the election of the board of supervisors as provided for in section [242.100](#), and the election of a president and secretary, and the secretary has filed the necessary bond and it has been approved, he shall call upon the county clerk or other person who may be in charge of the records of the district for all records, contracts, files, books, plats, maps and every article of record belonging to said district, and the county clerk or other person in charge of such records shall immediately deliver to said secretary of

the district all such records and take the receipt of the secretary therefor. Said secretary shall also call upon the county treasurer or other person who has control of the funds of the district, for the transfer of all funds of the district to him and said treasurer or other person shall immediately transfer such funds, taking the receipt of the secretary for such funds.

(RSMo 1939 § 12383)

Prior revisions: 1929 § 10802; 1919 § 4432

8/28/1939

242.120. Liability of reorganized district — consolidation. — When an existing drainage district has been reorganized under sections [242.010 to 242.690](#) the board of supervisors will not be required to follow such steps or requirements of sections [242.010 to 242.690](#) as are inconsistent with or rendered unnecessary, by the work that has already been done in the district; provided, that no such change of organization shall have the effect of in any way invalidating any indebtedness, liability, or contract of any nature incurred under its former organization, but all such indebtedness, liability or contract shall attach to and become the debt or liability of the new organization until the same is fully paid and discharged, and all debts owing to, and all rights and privileges and immunities held or enjoyed by the old district under its former organization shall be held and enjoyed by the new district when the same shall organize under the provisions of said sections; provided further, that no right of action shall exist nor remedy be allowed against any such reorganized district by virtue of any contract or contracts made by, or on behalf of, any such reorganized district prior to its reorganization as herein provided for, which did not exist or was not allowed by statute against such district prior to the time of its reorganization as herein provided for; and provided further, that two or more drainage districts, whether located in the same or different counties, may unite in formulating and signing articles of association for the reorganization of such districts under the provisions of sections [242.070 to 242.120](#), [242.510 to 242.530](#), and sections [242.680](#) and [242.690](#) and the land and other property of such districts may be combined into one and the same district.

(RSMo 1939 § 12384)

Prior revisions: 1929 § 10803; 1919 § 4433

8/28/1939



242.130. Extending time of corporate existence. — 1. Whenever the board of supervisors of any district organized under sections [242.010 to 242.690](#) or any previous

enactment of the general assembly of the state of Missouri providing for the organization of drainage districts by the circuit courts, finds that, in order to either raise funds to complete the plan for reclamation, pay for works already completed, pay bonds outstanding and interest thereon, or interest on the same, restore any works or construct new works or for any other cause, the time for which any such drainage district has been incorporated should be extended, such board shall call a meeting of landowners of the district in the same manner as is provided for in section 242.150; the notice shall state the time, place and purpose of such meeting, and that if the majority of acres represented at said meeting be cast in favor of such extension of the district's corporate existence a petition will be presented to the court organizing the district, asking for such extension of time.

2. Such meeting shall be conducted in the same manner as is provided in section 242.150 for the election of supervisors, except that one member of the board of supervisors shall act as chairman of such meeting and the secretary of the board or his deputy shall act as clerk; and if a majority of the acreage represented at such meeting shall vote in favor of such extension the board of supervisors shall within forty-five days before the next term of the circuit court file a petition with the clerk of said court praying for the extension of the corporate existence of the district, and after the filing of such petition the same proceeding shall be had as is provided for in sections 242.030 and 242.040 relating to articles of association and incorporation of the district.

3. If such petition be granted by the court, within twenty days thereafter the circuit clerk shall transmit a copy of the decree to the secretary of the board of supervisors who shall transmit a copy of the same to the secretary of state and to the recorder of deeds of each county having land or other property in the district, who shall file and preserve the same in his office, and for such service he shall receive a fee of one dollar. In case the court should find that such extensions should not be allowed said petition shall be dismissed and the cost incurred in the case be paid by the district.

(RSMo 1939 § 12373)

Prior revisions: 1929 § 10792; 1919 § 4422

8/28/1939

242.140. Drainage district may be dissolved, when. — 1. The incorporation of every drainage district, heretofore or hereafter incorporated under and by virtue of the provisions of sections 242.010 to 242.690, shall be dissolved if, at any time before bonds are issued and negotiated to construct the works and improvements as provided by the plan of reclamation adopted by its board of supervisors, the owners of a majority

of the acres of land within said drainage district petition the circuit court, wherein said drainage district was incorporated, for a dissolution thereof; provided, that upon the filing of any such petition, said circuit court shall, before dissolving said corporation ascertain and determine the amount of money in the treasury of, or owing to, said corporation, and the amount of all warrants issued and unpaid by it and the amount of the debts and other obligations owing by it; and, if said amount of money in the treasury and owing to said corporation, is in excess of the amount of said warrants, debts and other obligations, said circuit court shall order said warrants, debts and other obligations to be forthwith paid and discharged, and said excess divided among all the owners of land in said drainage district who paid the same thereto, in the proportions in which they paid the same; but, if said amount of money, in the treasury and owing to said corporation, is not sufficient to pay and discharge said warrants, debts and other obligations then said circuit court shall order said board of supervisors to levy and collect a uniform tax upon each and every acre of land within said drainage district, sufficient in amount to pay said deficiency, and to thereupon pay the same.

2. At any time during the corporate life of such drainage district, when all outstanding bonds shall have been paid and when all other indebtedness of said district shall have been paid or when there is sufficient money on hand to pay any and all outstanding indebtedness, and when there is sufficient money on hand to pay the costs and expenses of the dissolution of said corporation as herein provided, the board of supervisors may, and, on a petition of one-tenth of the landowners, owning one-tenth of the lands in said district, shall, call a meeting of the landowners in said district for the purpose of determining whether or not said district shall be dissolved and its corporate life terminated, first giving three weeks' notice of the object, purpose and place of such meeting by notices printed for three weeks successively in some newspaper or newspapers printed and published in the county or counties in which said drainage district lies; provided, however, that not more than one such meeting for purposes of dissolution shall be held each year.

3. If a majority of the landowners voting at said meeting and owning a majority of the acres of land in said district voting at said meeting vote in favor of the dissolution of the incorporation of said drainage district, the board of supervisors shall cause to be filed in the circuit court wherein said drainage district was incorporated, a petition setting out the facts: that there are no outstanding bonds of said district; that there is no other outstanding indebtedness of said district, or that there is sufficient money on hand to pay any outstanding indebtedness, as the case may be, and that there is sufficient money on hand to pay the cost and expenses of such dissolution; that due

notice has been given or the clerk thereof in vacation shall cause notice to be given by publication in some newspaper printed and published in said county for four successive weeks, the last publication being not less than fifteen days before the day to which said petition is made returnable, directed to the creditors, landowners and all persons interested, of the filing of said petition, its object and purpose, and ordering them to show cause, if any there be, on said first day, why said corporation should not be dissolved.

4. If, upon a hearing of said petition, the court find the facts aforesaid and find that there are no outstanding debts and that there is sufficient money to pay the expenses of dissolution, it shall enter its order dissolving said corporation. If it find there is sufficient money on hand to pay all outstanding debts it shall order said debts paid and thereafter, on proper showing of their payment, enter its order of dissolution. Any excess of money on hand shall be distributed as herein provided; provided, the foregoing provision of dissolution shall not be effective until the bridges across the drainage ditches in such district are sufficient and in a reasonable state of repair.

(RSMo 1939 § 12361, A.L. 1978 H.B. 1634)

Prior revision: 1929 § 10780

Effective 1-2-79

(1980) Statute governing the cost of organization of a drainage district does not limit right and duty of the court to order assessment of additional levies to pay district's debts or part of proceedings of final dissolution. Matter of Little Chariton Drainage Dist. (A.), 602 S.W.2d 916.

1/2/1979

242.150. Election of board of supervisors. — Within thirty days after any drainage district shall have been organized and incorporated under the provisions of section [242.040](#) the circuit clerk of the county in which the articles of association have been filed shall, upon giving notice by causing publication to be made once a week for two consecutive weeks in some newspaper published in each county in which lands of the district are situate, the last insertion to be at least ten days before the day of such meeting, call a meeting of the owners of real estate or other property situate in said district, at a day and hour specified in some public place in the county in which the district was organized, for the purpose of electing a board of five supervisors, to be composed of owners of real estate in said district, two of whom at least shall be residents of the county or counties in which such district is situate, or some adjoining counties; the landowners, when assembled, shall organize by the election of a

chairman and secretary of the meeting who shall conduct the election; at such election each and every acre of land in the district shall represent one share, and each owner shall be entitled to one vote in person or by proxy for every acre of land owned by him in such district, and the five persons receiving the highest number of votes shall be declared elected as supervisors; and said supervisors shall immediately by lot determine the terms of their office, which shall be respectively one, two, three, four and five years, and they shall serve until their successors shall have been elected and qualified.

(RSMo 1939 § 12327)

Prior revisions: 1929 § 10746; 1919 § 4381; 1909 § 5507

(1955) Where acts of board in levying tax were acts of de facto officers, the validity of such acts may not be questioned in action to collect tax on ground supervisors were not legally elected. Ft. Osage Dr. Dist. v. Jackson Co. (Mo.), 275 S.W.2d 326.

8/28/1939



242.160. Election of supervisors — electors. — In the same month of each year after the election of the first board of supervisors, the board of supervisors shall call a meeting of the owners of land and other property in the district, in the same manner as is provided for in section [242.150](#), and such owners shall meet at the time and place fixed by the board of supervisors and elect one supervisor therefor in like manner as prescribed in section [242.150](#), who shall hold his office for five years or until his successor is elected and qualified; and in case of a vacancy in any office of supervisors the remaining supervisors may fill such vacancy until the next annual meeting, when a successor shall be elected for the unexpired term; provided, that after the report of the commissioners has been confirmed by the court under the provisions of section [242.280](#), only the land and other property having benefits assessed against it shall be entitled to vote at the annual meetings held under the provisions of this section.

(RSMo 1939 § 12328)

Prior revisions: 1929 § 10747; 1919 § 4382; 1909 § 5508

8/28/1939

242.170. Vacancy resulting from void election — how filled. — The provisions of section [245.065](#) relating to vacancies in office of members of the board of supervisors of levee districts resulting from improper election shall apply, insofar as practicable to drainage districts organized under the provisions of sections [242.010](#) to [242.690](#).

(RSMo 1939 § 12498, A. 1949 S.B. 1082)

Prior revisions: 1929 § 10908; 1919 § 4602

8/28/1949

242.180. Supervisors to take oath. — Each supervisor before entering upon his official duties shall take and subscribe to an oath before some officer authorized by law to administer oaths, that he will honestly, faithfully, and impartially perform the duties devolving upon him in office as supervisor of the drainage district in which he was elected, and that he will not neglect any of the duties imposed upon him by sections [242.010](#) to [242.690](#).

(RSMo 1939 § 12329)

Prior revisions: 1929 § 10748; 1919 § 4383; 1909 § 5509

8/28/1939



242.190. Supervisors — powers and duties. — 1. In order to effect the drainage, protection and reclamation of the land and other property in the district subject to tax, the board of supervisors is authorized and empowered to clean out, straighten, widen, change the course and flow, alter or deepen any ditch, drain, river, watercourse, pond, lake, creek, bayou or natural stream in or out of said district; to fill up any creek, drain, channel, river, watercourse or natural stream; and to concentrate, divert or divide the flow of water in or out of said district; to construct and maintain main and lateral ditches, canals, levees, dikes, dams, sluices, revetments, reservoirs, holding basins, floodways, pumping stations and syphons and any other works and improvements deemed necessary to preserve and maintain the works in or out of said district; to construct or enlarge or cause to be constructed or enlarged any and all bridges that may be needed in or out of said district across any drain, ditch, canal, floodway, holding basin, excavation, public highway, railroad right-of-way, tract, grade, fill or cut; to construct roadways over levees and embankments; to construct any and all of said works and improvements across, through or over any public highway, railroad right-of-way, track, grade, fill or cut in or out of said district; to remove any fence, building or other improvements in or out of said district, and shall have the right to hold, control and acquire by donation or purchase and, if need be, condemn any land, easement, railroad right-of-way, sluice, reservoir, holding basin or franchise in or out of said district for right-of-way, holding basin or for any of the purposes herein provided, or for material to be used in constructing and maintaining said works and improvements for draining, protecting and reclaiming the lands in said district.

2. The board of supervisors shall also have the power and authority to hold and control all water power created by the construction of works of the district, and shall have power to construct and maintain hydroelectric power plant or plants for the purpose of developing such power for the use of the district, and to use any funds in the treasury of the district not otherwise appropriated for the construction and maintenance of such power plant or plants, and the board may lease any surplus power in excess of that required for the uses of the district, and the proceeds of such lease or leases shall be placed in the treasury of the district.

3. The board may condemn for the use of the district, any land or property within or without the district not acquired or condemned by the court on the report of the commissioners assessing benefits and damages and shall follow the procedure that is now provided by law for the appropriation of land or other property taken for telegraph, telephone and railroad rights-of-way.

4. The board of supervisors may invest any funds not immediately required for the payment of the operating expenses of the district in the following:

(1) Bonds, notes or certificates of indebtedness which are direct obligations of the United States or bonds or other indebtedness, the principal and interest of which are unconditionally guaranteed by the United States;

(2) Accounts of any savings and loan association organized under the laws of this state or another state, or the United States, which holds a certificate of insurance from the Federal Savings and Loan Insurance Corporation;

(3) Savings accounts and time deposits, including time certificates of deposit in banking institutions.

(RSMo 1939 § 12349, A.L. 1969 H.B. 53)

Prior revisions: 1929 § 10768; 1919 § 4402; 1909 § 5513

CROSS REFERENCES:

Bi-state development agency, bonds of, investment in authorized, 70.377

Multinational banks, securities and obligations of, investment in, when, 409.950

Savings accounts in insured savings and loan associations, investment in authorized, 369.194

8/28/1969

242.200. Board to elect president and secretary — report — compensation. —

1. The board of supervisors immediately after their election shall choose one of their

number president of the board, and elect some suitable person secretary, who shall serve until the secretary's successor is elected and qualified, and who shall be a resident of the county or counties in which the district is situate or of an adjoining county and may or may not be a member of the board.

2. Such board shall adopt a seal with a suitable device, and shall keep a record of all its proceedings, which shall be open to the inspection of all owners of real estate and other property of the district, as well as to all other interested parties.

3. The board shall report to the landowners at the annual meeting held pursuant to the provisions of section [242.160](#) what work has been done, either by the engineers or otherwise.

4. At the annual meeting held pursuant to the provisions of section [242.160](#), the compensation to be received by the members of the board for their services while actually engaged in work for the district shall be determined.

(RSMo 1939 § 12330, A.L. 1983 H.B. 236, A.L. 2002 S.B. 941)

Prior revisions: 1929 § 10749; 1919 § 4384; 1909 § 5510

8/28/2002

242.210. Secretary-treasurer of board — annual audit — warrants, form. — 1. The secretary of the board of supervisors in any drainage district shall hold the office of treasurer of such district, except as otherwise provided herein, and the treasurer shall receive and receipt for all the drainage taxes collected by the county collector or collectors of revenue, and the treasurer shall also receive and receipt for the proceeds of all tax sales made pursuant to the provisions of sections [242.010](#) to [242.690](#).

2. The treasurer shall receive a salary, payable monthly, such as the board of supervisors may fix, and all necessary expenses; the board of supervisors shall furnish the secretary and treasurer the necessary office room, furniture, stationery, maps, plats, typewriter, and postage, which office shall be in the county, or one of the counties, in which such district is situate, or in an adjoining county, and the district records shall be kept in such office.

3. The treasurer may appoint, by and with the advice and consent of the board of supervisors, one or more deputies as may be necessary, whose salary or salaries and necessary expenses shall be paid by the district.

4. The treasurer shall give bond in such amount as shall be fixed by the board of supervisors, conditioned that the treasurer will well and truly account for and pay out, as provided by law, all moneys received by the treasurer as taxes from the county

collector or collectors, and the proceeds from the tax sales of delinquent taxes, and from any other source whatever on any account or claim of said district, which bond shall be signed by at least two sureties, approved and accepted by the board of supervisors, and the bond shall be in addition to the bond for the proceeds of sales of bonds, which is required by section 242.480. The bond of the treasurer may, if the board shall so direct, be furnished by a surety or bonding company, which shall be approved by the board of supervisors; bond shall be placed and remain in the custody of the president of the board of supervisors, and shall be kept separate from all papers in custody of the secretary and treasurer.

5. The treasurer shall deposit all funds received by the treasurer in some bank, banks, or trust company to be designated by the board of supervisors. All interest accruing on such funds shall, when paid, be credited to the district.

6. It shall be the duty of the board of supervisors to audit or have audited the books of the treasurer of the district each year and make report thereof to the landowners at the annual meeting and publish a statement within thirty days thereafter, showing the amount of money received, the amount paid out during such year, and the amount in the treasury at the beginning and end of the year, and file a copy of such statement in the office of the county clerk of each county containing land embraced in the district.

7. The treasurer of the district shall pay out funds of the district only on warrants issued by the district, said warrants to be signed by the president of the board of supervisors and attested by the signature of the secretary and treasurer. All warrants shall be in the following form:

\$_____ Fund _____ No. of warrant _____ Treasurer of _____
district, state of _____.

Pay to _____ dollars out of the money in _____ fund of
_____ district for _____.

By order of board of supervisors of _____ district.

(Seal)

President of
district.

Attest _____

Secretary of
district.

(RSMo 1939 § 12348, A.L. 1969 H.B. 53, A.L. 2002 S.B. 941)

Prior revisions: 1929 § 10767; 1919 § 4401; 1909 § 5533

8/28/2002



242.220. Chief engineer and assistants — appointment — duties. — 1. Within sixty days after organizing the board of supervisors shall appoint a competent civil engineer as chief engineer, who may be an individual, copartnership or corporation, and who shall engage such assistants as the board of supervisors may approve. The chief engineer shall have control of the engineering work in said district. The chief engineer may, by and with the consent of the board of supervisors, consult any eminent engineer or engineers and obtain his or their opinion and advice concerning the reclamation of lands in said district.

2. The said engineer or engineers shall make all necessary surveys of the lands within the boundary lines of said district, as described by the articles of association, and of all lands adjacent thereto that may or will be improved or reclaimed in part or in whole by any system of drainage or levees that may be outlined and adopted, and said engineer or engineers, shall make a report in writing to the board of supervisors with maps and profiles of said surveys, which report shall contain a plan for draining, leveeing and reclaiming the lands and property described in the articles of association or adjacent thereto from overflow of or damage by water; said maps and profiles shall also indicate, so far as necessary, the physical characteristics of the lands, and location of any public roads, railroads and other rights-of-way, roadways and other property or improvements located on such lands.

(RSMo 1939 § 12331)

Prior revisions: 1929 § 10750; 1919 § 4385; 1909 § 5511

8/28/1939

242.230. Engineer's annual report — adoption of plan for reclamation — supplemental plans authorized. — The chief engineer shall make a report in writing to the board of supervisors once every twelve months and more often if said board shall so require. Upon receipt of the final report of said engineer concerning surveys made of the lands and other property contained in the district organized, and plans for reclaiming the same, the board of supervisors shall adopt such report or any modification thereof approved by the chief engineer after consulting with the chief engineer or someone representing the chief engineer, and thereafter such adopted report shall be the plan for draining, leveeing or reclaiming such lands and other property from overflow or damage by water, and it shall after such adoption be known and designated as "the plan for reclamation", which plan shall be filed with the secretary of the board of supervisors and copied by the secretary into the records of the

district. Supplemental plans for draining, leveeing, or reclaiming some or all of the lands and other property in the district from overflow or damage by water may be adopted by the board of supervisors from time to time as deemed necessary by the board of supervisors. The aforesaid supplemental plans may supplement, alter or modify the plan for reclamation and shall become a part thereof.

(RSMo 1939 § 12332, A.L. 1977 S.B. 2, A.L. 2008 S.B. 939)

Prior revisions: 1929 § 10751; 1919 § 4386; 1909 § 5512

8/28/2008

242.240. Filing of reclamation report — appointment of commissioners. —

1. Within twenty days after the adoption of the plan of reclamation the secretary of the board of supervisors shall prepare and transmit a certified copy thereof to the circuit clerk of the court organizing the drainage district, and at the same time the board of supervisors shall file with the circuit clerk a petition asking the judge of the court to appoint commissioners to appraise the lands within and without the district to be acquired for rights-of-way, holding basins and other drainage works of the district, and to assess benefits and damages accruing to all lands in the district and other property by reason of the execution of the plan of reclamation.

2. Within thirty days after the filing of such petition the court shall, by an order, appoint three commissioners, who shall be persons residing within the state of Missouri, and who shall not be landowners in the district nor of kin within the fourth degree of consanguinity to any person owning land in the district. A majority of the commissioners shall constitute a quorum and shall control the action of the board on all questions.

(RSMo 1939 § 12334, A.L. 1978 H.B. 1634, A.L. 1990 H.B. 1070)

Prior revisions: 1929 § 10753; 1919 § 4388; 1909 § 5514

8/28/1990



242.250. Organization of commissioners — duties of secretary of board of supervisors. —

1. Said circuit clerk upon the filing of said order of appointment shall notify each of said commissioners of his appointment by written or printed notice, and in the same he shall state the time and place for the first meeting of said commissioners.

2. The secretary of the board of supervisors or his deputy shall attend such meeting, and shall furnish to said commissioners a complete list of lands, all corporate and

other property described in the articles of association or adjacent thereto that will be affected by carrying out and putting into force the plan for reclamation, and the names of the owners of such property, as were contained in the articles of association, at the date of the decree of the court incorporating the district. Said secretary shall also furnish said commissioners a copy of the plan for reclamation, with maps and profiles in his office.

3. The commissioners at said meeting, or within ten days thereafter, shall each take and subscribe to an oath that they will faithfully and impartially discharge their duties as such commissioners and make a true report of the work done by them. The said commissioners shall also at said meeting elect one of their own number chairman, and the secretary of the board of supervisors, or his deputy, shall be ex officio secretary of said board of commissioners during their continuance in office.

(RSMo 1939 § 12335)

Prior revisions: 1929 § 10754; 1919 § 4389; 1909 § 5515

8/28/1939

242.260. Commissioners to inspect district and assess benefits and damages — file report. — 1. Within thirty days after qualifying, as provided for in section [242.250](#), the commissioners shall begin their duties. They may at any time call upon the attorney of the district for legal advice and information relative to their duties, and the chief engineer or one of his assistants shall accompany the commissioners at all times and render his opinion in writing when called for.

2. The commissioners shall proceed to view the premises and determine the value of all land and other property, within or without the district, to be acquired and used for rights-of-way, holding basins or other works set out in the plan for reclamation. They shall assess the amount of benefits, and the amount of damages, if any, that will accrue to each governmental lot, forty-acre tract or other subdivision of land according to ownership, public highways, railroad and other rights-of-way, railroad roadways and other property from carrying out and putting into effect the plan for reclamation heretofore adopted.

3. The commissioners in assessing the benefits to lands, public highways, railroad and other rights-of-way, railroad roadways and other property not traversed by such works and improvements as provided for in the plan for reclamation, shall not consider what benefits will be derived by such property after other ditches, improvements or other plans for reclamation shall have been constructed, but they shall assess only such benefits as will be derived from the construction of the works

and improvements set out in the plan for reclamation, or as the same may afford an outlet for drainage or protection from overflow of such property. The commissioners shall give due consideration and credit to any other drains, ditch or ditches, levee or levees or other systems of reclamation which may have already been constructed and which afford partial or complete protection to any tract or parcel of land in the new district. The public highways, railroad and other rights-of-way, roadways, railroad and other property shall be assessed according to the increased physical efficiency and decreased maintenance cost of roadways by reason of the protection to be derived from the proposed works and improvements. The commissioners shall have no power to change the plan for reclamation heretofore provided for.

4. The board of commissioners shall prepare a report of their findings, which shall be arranged in tabular form, the columns of which shall be headed as follows: Column one, "owner of property assessed"; column two, "description of property assessed"; column three, "number of acres assessed"; column four, "amount of benefits assessed"; column five, "number acres taken for right-of-way"; column six, "value of property taken"; column seven, "damages".

5. They shall also by and with the advice of the engineer of the district estimate the cost of works set out in the plan for reclamation, which estimates shall include the cost of property required for rights-of-way, holding basins and other works and damages, and the probable expenses of organization and administration, as estimated by the board of supervisors, and shall tabulate the same. The report shall be signed by at least a majority of the commissioners and filed in the office of the circuit clerk of the court organizing the drainage district.

6. The secretary of the board of supervisors, or his deputy, shall accompany the commissioners while engaged in their duties, and shall perform all clerical work of the board; he shall also, under the advice, supervision and direction of the attorney for the district, prepare their report.

7. The board of commissioners shall report to the board of supervisors the number of days each had been employed and the actual expenses incurred. Each commissioner shall be paid an amount set by the court for each day for his services, and necessary expenses in addition thereto.

(RSMo 1939 § 12336, A.L. 1985 H.B. 378)

Prior revisions: 1929 § 10755; 1919 § 4390; 1909 § 5516

8/28/1985

242.270. Notice of commissioners' report — form — publication. — Upon the filing of the report of the commissioners, the clerk of said circuit court shall give notice thereof by causing publication to be made once a week for three consecutive weeks in some newspaper, published in each county in the district. It shall not be necessary for said clerk to name the parties interested, but it shall be sufficient to say:

NOTICE OF FILING OF COMMISSIONERS' REPORT FOR
_____ DRAINAGE DISTRICT.

Notice is hereby given to all persons interested in the following described land and property in _____ County (or counties) Missouri (here describe land and property) included within " _____ drainage district" that the commissioners heretofore appointed to assess benefits and damages to the property and lands situate in said drainage district and to appraise the cash value of the land necessary to be taken for rights-of-way, holding basins and other works of said district within or without the limits of said district, filed their report in this office on the _____ day of _____, 20_____, and you and each of you are hereby notified that you may examine said report and file exceptions to all or any part thereof, as provided by law,

Clerk of the circuit court of _____ County, Missouri.

provided, that where lands in different counties are contained in said report, the said notice shall be published in some newspaper in each county in which such lands so affected are situate, and it shall not be necessary to publish a list of all of said lands in each county, but only that part of same situate in the respective counties.

(RSMo 1939 § 12337)

Prior revisions: 1929 § 10756; 1919 § 4391; 1909 § 5517

(1953) Where notice of organization of drainage district to holder of easement required by §§ 242.020 and 242.030 was not given, the notice and opportunity for hearing on commissioner's report afforded by § 242.270 was ineffectual to comply with due process of law. *Farmers Drainage Dist. v. Sinclair Refining Co. (Mo.)*, 255 S.W.2d 745.

8/28/1939



242.280. Exceptions heard and determined by circuit court — procedure. — 1. The drainage district or any owner of land or other property in said district, may file exceptions to said report or to any assessment for either benefits or damages, within

ten days after the last day of publication of the notice provided for in the preceding section. All exceptions shall be heard by the court and determined in a summary manner so as to carry out liberally the purposes and needs of the district, and if it appears to the satisfaction of the court, after having heard and determined all of said exceptions, that the estimated cost of constructing the improvement contemplated in the plan for reclamation is less than the benefits assessed against the land and other property in said district, then the court shall approve and confirm said commissioners' report as so modified and amended.

2. The court may at any time before final confirmation or approval refer the report back to the commissioners with or without instructions, and when the report is again filed, notice shall be given in the form and for the time provided in section [242.270](#). Exceptions to the second report shall be filed within ten days after the date of the last day of publication, and heard and determined in a summary manner.

3. The court shall adjudge and apportion the costs incurred by the exceptions filed and shall condemn any land or other property, within or without the boundary lines of the district, that is shown by the report of the commissioners to be needed for rights-of-way, holding basins and other works, or that may be needed for material to be used in constructing said works, following, as nearly as possible, the procedure that is now provided for by law for the appropriation of land and other property taken for telegraph, telephone and railroad rights-of-way.

4. The clerk of said circuit court shall transmit a certified copy of the court decree and copy of the commissioners' report, as confirmed or amended by the court, to the secretary of the board of supervisors of the district, who shall make and transmit a certified copy of the said decree and that part of the said report affecting land in each county to the recorder of each county having lands in the district, or affected by the said report, where the same shall become a permanent record and each such recorder shall receive a fee of one dollar for receiving, filing and preserving the same.

5. Any person may appeal from the judgment of the court, and upon such appeal there may be determined either or both of the following questions: First, whether just compensation has been allowed for property appropriated and, second, whether proper damages have been allowed for property prejudicially affected by the improvements.

(RSMo 1939 § 12338)

Prior revisions: 1929 § 10757; 1919 § 4392; 1909 § 5518

8/28/1939

242.290. Court to declare corporation dissolved — costs not to exceed benefits. — If, after determining the objections made to the commissioners' report, the court shall find that the estimated costs of works and improvements as reported by the board of commissioners, or as amended by the court, exceed the estimated benefits, the court shall then render its decree, declaring the incorporation of the district to be dissolved as soon as all costs incurred, which shall include court costs and all obligations and expenses incurred in behalf of the district by the board of supervisors shall have been paid, and if the uniform tax levied under the provisions of section [242.430](#) be found insufficient to pay all such costs, the board of supervisors shall make such additional uniform tax levies as will be necessary to pay such deficiency; provided, that in estimating the cost of constructing the works and improvements of the district the amount of interest that might accrue upon bonds that may be issued by the board of supervisors under the provisions of sections [242.010 to 242.690](#) shall not be considered as a part of the cost of construction.

(RSMo 1939 § 12362)

Prior revisions: 1929 § 10781; 1919 § 4413

8/28/1939

242.300. Decree or order of court may be amended or changed. — 1. Any decree or order of the court organizing any drainage district, confirming the report of commissioners, extending or changing the boundary lines of the district, reorganizing a district or otherwise pertaining to any procedure of the district may be amended or changed at any time by the court, by correcting the names of the landowners, by adding or amending any such names, or by adding, amending or correcting the description of any lands within the district, or that are alleged to be within the boundary of such district, or any other way amend or change any decree of the court pertaining to the district that may be deemed necessary to better carry out and fulfill the objects and designs of the drainage district without impairing the obligations of the district and without relieving the security of any obligations executed by or in behalf of any such districts.

2. When any such amendments are desired, the board of supervisors shall present a petition to the court organizing the district, in which shall be set forth the amendments or changes desired with the names of the owners and description of lands to be affected by the proposed amendments, changes or corrections; each owner of such lands not a party to the original proceedings shall be served, if a resident of this state, in the manner provided for by section [506.150](#), and if a nonresident, in the manner now provided by subsection 6 of section [506.160](#), or by publication as provided by

section 242.030; if unknown, service shall be by publication in the manner provided for in section 242.030; any landowner objecting to the petition may file objections within fifteen days after the last publication of the notice or if personal service is had, within fifteen days after service is had.

3. The matters in said petition and all objections if any be filed shall be heard and determined by the court in a summary manner and as speedily as possible. Any number of amendments or corrections may be included in one petition, and any such amendments or corrections may be allowed or rejected as may be found just and right by the court.

(RSMo 1939 § 12366, A. 1949 S.B. 1082)

Prior revision: 1929 § 10785

8/28/1949



242.310. Amendment of plan of reclamation procedure — appointment of commissioners. — 1. The board of supervisors for and in behalf of any drainage district, organized under sections 242.010 to 242.690, may file a petition in the office of the clerk of the court organizing said district, asking permission to amend or change the plan for reclamation. Said petition shall specifically set forth the change or amendment desired and in case commissioners have already appraised the values of lands to be taken for works set out in the plan for reclamation sought to be amended and assessed the benefits and damages to the lands, said petition shall ask for the appointment of three commissioners to appraise the land to be taken for use in the district, assess benefits and damages accruing to the lands of and property affected by the proposed amendment or change.

2. Upon the filing of the said petition the clerk of said circuit court shall cause a notice to be given to all the owners of land and other property situated in said district. Said notice shall be given by publication in some newspaper published in the county in which said district was organized and said notice may be in the following form, and shall be deemed sufficient for all purposes herein:

State of Missouri)
) ss.
County of _____)
To the owners and all other persons interested in the land and corporate property of _____ district of Missouri:
You, and each of you, are hereby notified that the _____

drainage district of Missouri, by its board of supervisors, has filed in the office of the circuit clerk of _____ County, Missouri, its petition praying said circuit court for permission to amend or change (as the case may be) its plan for reclamation and unless you show cause to the contrary on or before the _____ day of _____, 20_____, the prayer of said petition may be granted and said plan for reclamation may be amended and changed accordingly, and commissioners appointed to appraise property and to assess benefits and damages accruing to the lands or properties affected by such changes.

Clerk, Circuit Court _____ County.

Said notice shall be inserted once a week for two consecutive weeks in some newspaper published in each county having lands in the district.

3. Any owner of land or property affected by the proposed change or amendment shall have a right to file his objections to the granting of the prayer of said petition within ten days after the last publication of the notice herein provided for. Said court shall hear said petition and any objections that may be filed against said petition in a summary manner, and if it should appear from the testimony offered that the objections should be sustained and that the plan for reclamation should not be changed, or amended, then the court shall dismiss the petition. But if it shall appear from the testimony offered that the prayer of said petition should be granted in whole or in part, the court shall allow and decree such change, or amendment. The clerk of said circuit court shall make a certified copy of such finding and judgment and furnish the same to the secretary of the board of supervisors who shall preserve the same in his office.

4. At the same session of the court at which the plan for reclamation is amended, changed or extended, the court may appoint three commissioners who shall possess the qualifications defined in section [242.240](#), to view the lands and other property affected by such change in the plan for reclamation and to assess said lands and property with the benefits and damages accruing thereto on account of the execution of the plan for reclamation as changed or amended, and said commissioners shall make a report to the court of their finding, after which the same proceeding shall be had concerning said report as is now provided for hearing objections to original reports appraising lands and assessing benefits and damages; provided, that if said district shall have outstanding any bonds or other negotiable evidences of indebtedness, any new assessment of benefit made in accordance with this section

shall not diminish the total amount of the unpaid assessed benefits in said districts more than ten percent, or below one hundred and twenty-five percent, of the amount of the principal of such bond and other negotiable certificates of indebtedness issued by said district.

(RSMo 1939 § 12367, A.L. 1978 H.B. 1634)

Prior revision: 1929 § 10786

Effective 1-2-79

1/2/1979

242.320. Assessed damages paid before appropriating land. — 1. The board of supervisors of drainage districts organized under sections [242.010](#) to [242.690](#) shall not have the right to enter upon or appropriate any land for rights-of-way, holding basins or other works of the districts, until the prices awarded to the owners of such land shall have been paid to such owners or into the hands of the circuit clerks of the courts organizing such districts for the use of such owners; and if the sums awarded be not so paid within five years from the date of filing the commissioners' reports, all proceedings as to the taking of such property for rights-of-way, holding basins and other works not so paid for shall abate at the cost of said district. Whenever any land is acquired by any district under the provisions of said sections and the price of such property has been paid the owner by the district, the title, use, possession and enjoyment of such property shall pass from the owner and be vested in the district, and subject to its use, profit, employment and final disposition.

2. The price awarded for all land acquired by any district for rights-of-way, holding basins, or other works and the amount of damages assessed by the board of commissioners and confirmed by the court to any tract or parcel of land or other property in the district, shall be paid in cash to the owner thereof or to the clerk of the court for the use of such owner, and that portion of any tract or parcel of land or other property not taken for use of the district shall be assessed for the benefits accruing in accordance with the provisions of sections [242.010](#) to [242.690](#).

(RSMo 1939 § 12353)

Prior revisions: 1929 § 10772; 1919 § 4405

8/28/1939

242.330. Board of supervisors — powers, contracts — duties of chief engineer — state or federal aid. — 1. The board of supervisors of said district shall have full power and authority to build, construct, excavate and complete all or any works and

improvements which may be needed to carry out, maintain and protect the plan for reclamation. To accomplish that end the said board of supervisors is hereby authorized and empowered to employ men and teams and to purchase machinery, employ men to operate same and directly have charge of and construct the works and improvements, or by the use of other or more efficient means than provided for in the plans adopted.

2. They may, in their discretion, let the contract for such works and improvements either as a whole or in sections, and when such contract or contracts are let, they shall be advertised and let to the lowest and best bidder, who shall give a good and approved bond, with ample security, conditioned that he will well and promptly carry out the contract for such work and improvements, which contract shall be in writing and to which shall be attached and made a part thereof, complete plans and specifications of the work to be done and the improvements to be made under said contract, which plans and specifications shall be prepared by the chief engineer and shall be incorporated in and attached to the contract, which contract shall be prepared by the attorney for the district, and before the work is commenced shall be approved by the board of supervisors and signed by the president of the board and the contractor, and shall be executed in duplicate.

3. The chief engineer shall be the superintendent of all the works and improvements, and shall, whenever required, and at least once each year, make a full report to said board of all work done and improvements made and make such suggestions and recommendations to the board as he may deem proper. However, if and when the state of Missouri or the United States of America or any subdivision, department, division or agency thereof is willing to construct the works and improvements provided for in the plan for reclamation or any part thereof, the board of supervisors of the district is authorized to cooperate with the agency to the fullest extent and is hereby granted power and authority to accept any such work in aid of the project, irrespective of whether it be by way of grant of funds, labor, work, materials or otherwise and may, in the discretion of the board of supervisors, give such assurances as may be required to obtain the construction of the works and improvements provided for in the plan for reclamation.

(RSMo 1939 § 12339, A.L. 1976 S.B. 915)

Prior revisions: 1929 § 10758; 1919 § 4393; 1909 § 5526

8/28/1976



242.335. District may contract with political subdivisions or other districts for outlets — costs determined, how. — Drainage districts organized or incorporated under this chapter may contract with each other, and with any political subdivision of this or any other state, and with districts organized or incorporated under any other law of this state or under the laws of any other state, for such outlets as the one may need and the other can furnish on such terms as may be deemed to be just and fair. The cost of obtaining the outlets shall be paid for as are other expenses of the district or political subdivision for making improvements. If the districts or district and political subdivision cannot agree upon the compensation to be paid for the outlet, the district supplying the outlet, by action in the circuit court of the county wherein the district or political subdivision for which the outlet is supplied is organized or located, may recover from the district or political subdivision fair and just compensation for supplying the outlet. Any compensation received by the district shall be applied to improving its ditches or levees or reducing taxation or indebtedness.

(L. 1953 p. 546 § 242.195, A.L. 1959 S.B. 182, A.L. 1971 H.B. 137)

8/28/1971

242.340. Board of supervisors may amend plan for reclamation — limitations. —

1. Whenever it shall appear to the board of supervisors, after the plan for reclamation has been filed with the clerk of the court organizing said district and work has progressed thereunder, that some of the ditches or other improvements called for in said plan are inadequate and are not affording or giving to the lands adjacent to such ditch or ditches or other improvements, substantially the same outlets for drainage or protection from overflow that are afforded other lands in the district equally taxed, the board of supervisors of said districts shall have the power, authority and right, upon the recommendation of its chief engineer, to enlarge or cause to be enlarged any ditches or other improvements set out in the plan for reclamation and to construct or cause to be constructed such additional ditches, levees, canals and other improvements that may be necessary to afford such lands substantially equal outlets for drainage and protection from overflow that are afforded the other lands in said district, equally taxed, as a whole.

2. A description of said additional ditches and improvements found to be necessary by the board of supervisors and its chief engineer shall be filed with the secretary of the board of supervisors and entered upon the record of said board, and a certified copy thereof shall be filed with the clerk of the circuit court organizing said district, and thereafter shall be a part of the plan for reclamation.

3. The cost of said additional ditches and improvements shall be paid for out of the benefits assessed against all the lands in said district as finally confirmed by the circuit court organizing said district, in the same proportion and in the same manner as is provided for in the constructing of ditches, levees and other improvements called for in the original plan for reclamation; provided however, that the cost of constructing the additional ditches and other improvements herein provided for, shall not be levied against lands that have been annexed or added to the district after it was organized, unless the additional ditches and other improvements to be constructed shall directly benefit the annexed lands.

(RSMo 1939 § 12350)

Prior revision: 1929 § 10769

8/28/1939

242.350. Bridges over drainage works — how built or enlarged. — 1. All bridges contemplated by sections [242.010](#) to [242.690](#) and all enlargements of bridges already in existence shall be built and enlarged according to and in compliance with the plans, specifications and orders made or approved by the chief engineer of the district.

2. If any such bridge shall belong to any corporation, or be needed over a public highway or right-of-way of any corporation, the secretary of said board of supervisors shall give such corporation notice by delivering to its agent or officer, in any county wherein said district is situate, the order of the board of supervisors of said district declaring the necessity for the construction or enlargement of said bridge. A failure to construct or enlarge such bridge within the time specified in such order shall be taken as a refusal to do said work by said corporation, and thereupon the said board of supervisors shall proceed to let the work of constructing or enlarging the same at the expense of the corporation for the cost thereof, which costs shall be collected by said board of supervisors from said corporation, by suit therefor, if necessary. But before said board of supervisors shall let such work, it shall give some agent or officer of said corporation, now authorized by the laws of this state to accept service of summons for said corporation, at least twenty days' actual notice of the time and place of letting such work.

3. Any owner of land within or without the district may, at his own expense, and in compliance with the terms and provisions of sections [242.010](#) to [242.690](#), construct a bridge across any drain, ditch, canal or excavation in or out of said district.

4. All drainage districts shall have full authority to construct and maintain any ditch or lateral provided in its plan for reclamation, across any of the public highways

of this state, without proceedings for the condemnation of the same, or being liable for damages therefor. Within ten days after a dredge boat or any other excavating machine shall have completed a ditch across any public highway, a bridge adjudged sufficient by the county commission of said county or counties shall be constructed over such drainage ditch where the same crosses such highway, and after such bridge has been constructed it shall become a part of the road over which it is constructed and shall be maintained by the authority authorized by law to maintain the road of which it becomes a part.

5. When any drainage district has heretofore constructed or shall hereafter construct a bridge over a drainage ditch where the same crosses any public highway, said drainage district shall not be under obligation thereafter to further maintain or reconstruct any such bridge or bridges for more than twenty years after it first constructed or constructs such bridge at said place. If said bridge has been constructed by the drainage district and has become a part of said road and is then destroyed the authorities having control of the road are authorized, if they desire, to reconstruct such bridge, provided, however, the word corporation as used in this section shall not apply to the state or any political or civil subdivision thereof.

(RSMo 1939 § 12354, A.L. 1949 p. 260)

Prior revisions: 1929 § 10773; 1919 § 4406; 1909 § 5503

(1952) The 1949 amendment to this section did not impair obligation of contract because incorporation of district is not contract with residents of district nor was it retrospective against plaintiff's cause of action. *Swisher Inv. Co. v. Brimson Drainage Dist.*, 362 Mo. 865, 245 S.W.2d 75.

(1976) Where old bridge collapsed, even though it had become "a part of the road over which it is constructed", a county court has discretion not to replace such a bridge and superior judicial courts are not authorized to "restrain or coerce" a county court in its decision. *Hoskins v. Shelby Co.* (Mo. Banc), 536 S.W.2d 1.

8/28/1949



242.360. Embankments to be raised at expense of owner. — When any right-of-way has been obtained under sections [242.010](#) to [242.690](#), over any embankment belonging to any person, railroad, tramway or other corporation, it shall be the duty of the owner of such embankment to so raise at the expense of the owner, said embankment so that same will conform with the levee of said district, and if such person or corporation shall fail or refuse to raise such embankment in the manner

herein provided, said district may within three months after it has finished the building of its own levee enter upon and raise the embankment of said person or corporation to conform with said district levee. And the cost for such construction shall be a first lien upon the property of said person or corporation and such cost may be enforced in any court of competent jurisdiction.

(RSMo 1939 § 12355)

Prior revisions: 1929 § 10774; 1919 § 4407

8/28/1939

242.370. Existing drains may be connected. — 1. At the time of the construction, in any district incorporated under sections [242.010](#) to [242.690](#), of the plan for reclamation herein referred to, all ditches or systems of drainage already constructed in said district and all watercourses shall, if necessary to the drainage of any of the lands in said district, be connected with and made a part of the works and improvements of the plan of drainage of said district.

2. But no ditches, drains or systems of drainage constructed in said district after the completion of the aforesaid plan of drainage of said district, shall be connected therewith, unless the consent of the board of supervisors shall be first had and obtained, which consent shall be in writing and shall particularly describe the method, terms and conditions of such connection, and shall be approved by the chief engineer. Said connection, if made, shall be in strict accord with the method, terms and conditions laid down in said consent.

3. If the landowner or owners wishing to make such connection are refused by the board of supervisors or decline to accept the consent granted, the said landowner or owners may file a petition for such connection in the circuit court having jurisdiction in said district, and the matter in dispute shall in a summary manner be decided by said court which decision shall be final and binding on the district and landowner or owners.

4. No connection with the works or improvements of said plan of drainage of said district or with any ditch, drain or artificial drainage wholly within said district shall be made, caused or effected by any landowner or owners, company or corporation, municipal or private, by means of or with any ditch, drain, cut, fill, roadbed, levee, embankment or artificial drainage, wholly without the limits of said district, unless such connection is consented to by the board of supervisors, or in the manner herein provided.

(RSMo 1939 § 12376)

Prior revisions: 1929 § 10795; 1919 § 4425; 1909 § 5531

8/28/1939

242.380. Board may appoint overseers — duties. — 1. For the purpose of preserving any ditch, drain, dike, levee or other work constructed or erected under the provisions of sections [242.010](#) to [242.690](#), the board of supervisors shall have power to appoint an overseer or overseers of the district, who shall hold their positions at the will of the board.

2. It shall be the duty of such overseer or overseers to keep the ditches, drains, levees, dikes and other works of the district in good repair, and remove all obstructions from ditches, drains or watercourses within or without said district that may affect the works of the district. It shall be the further duty of said appointees to report at such times as the board may require the condition of the levees, drains and other works of the district assigned to each by the board; to make such examinations of all levees during high water periods as he may be directed by the board of supervisors; and upon any emergency or danger to levees or other works of the district, of which the overseer has charge, he may call out all able-bodied men over sixteen years of age and under fifty years within the district, and compel such persons to perform such work as said overseer may deem necessary to be made in order to protect the levees, grades or other works of the district.

3. Any person who shall refuse to perform such work assigned to him by said overseer shall be deemed guilty of a misdemeanor and upon affidavit made before any associate circuit judge of the county by the overseer or any other person, that the offender has defaulted in obeying such call or summons of said overseer, said associate circuit judge shall issue a warrant for the arrest of such offender, and upon conviction before said associate circuit judge, upon information or any other modes provided by law for trials of cases of misdemeanor, he shall be fined in any sum not less than twenty nor more than one hundred dollars, or imprisonment in the county jail not less than fifteen nor more than sixty days, or both such fine and imprisonment, at the discretion of the associate circuit judge. For each day's work any person shall perform under such requisition, he shall be paid the sum of one dollar and fifty cents out of the funds of the district.

(RSMo 1939 § 12368)

Prior revisions: 1929 § 10787; 1919 § 4417

8/28/1939



242.390. Board of supervisors to employ attorney — duties. — The board of supervisors within sixty days after organizing shall employ an attorney to act for the district and to advise said board. Such employment shall be evidenced by an agreement in writing, which, as far as possible, shall specify the exact amount to be paid to said attorney for all services and expenses. Such attorney shall conduct all legal proceedings and suits in court where the district is a party or interested, and shall in all legal matters advise the said board of supervisors, all officers, employees or agents of said district and board, and generally look after and attend to all matters of a legal nature for said board and district. When the said board may deem it necessary, they may, by and with the advice of said attorney, and under the like terms and conditions as above set forth, employ another attorney or attorneys.

(RSMo 1939 § 12351)

Prior revisions: 1929 § 10770; 1919 § 4403; 1909 § 5529

8/28/1939

242.400. Board to provide for compensation of employees and fees of officers. — The board of supervisors, except where otherwise provided shall, by resolution, at time of hiring or appointing, provide for the compensation for work done and necessary expense incurred by any officer, engineer, attorney or other employee and shall also pay the fees, per diem and necessary expenses of all court and county officers who may by virtue of sections [242.010 to 242.690](#) render service to said district. It is understood that the ordinary fee statute does not apply to services rendered under sections [242.010 to 242.690](#) by any county officer, but each such officer shall receive only a reasonable compensation for services actually rendered, the same to be fixed by the court in which the proceeding is pending, except where otherwise provided in sections [242.010 to 242.690](#); that said corporation or petitioners for corporations may prepare, write or print all copies of petitions, writs, orders and decrees or other papers, and furnish same to the clerk or other officer for his use, and in such event said officer shall be entitled to receive as compensation for issuing the said writs and copies of petitions, decrees, orders or other papers, only the reasonable value of the services actually rendered.

(RSMo 1939 § 12363)

Prior revisions: 1929 § 10782; 1919 § 4414; 1909 § 5527

CROSS REFERENCE:

Fees of county and circuit clerks, 246.020, 246.030

8/28/1939

242.410. Board may remove any officer or employee. — The board of supervisors may at any time remove any officer, attorney or other employee appointed or employed by said board.

(RSMo 1939 § 12375)

Prior revisions: 1929 § 10794; 1919 § 4424; 1909 § 5528

8/28/1939



242.420. Board to keep record of proceedings. — The board of supervisors of any district organized under sections [242.010](#) to [242.690](#) shall cause to be kept a well-bound book, entitled "Record of board of supervisors of _____ district", in which shall be recorded minutes of all meetings, proceedings, certificates, bonds given by all employees and any and all corporate acts, which record or records shall at all times be open to the inspection of anyone interested, whether taxpayer or bondholder.

(RSMo 1939 § 12352)

Prior revisions: 1929 § 10771; 1919 § 4404; 1909 § 5530

8/28/1939

242.430. Tax levied by board for cost of organization. — 1. The board of supervisors of any drainage district organized under the provisions of sections [242.010](#) to [242.690](#) shall, as soon as elected and qualified, levy a uniform tax of not more than eight dollars per acre upon each acre of land within such district, as defined by the articles of association to be used for the purpose of paying expenses incurred or to be incurred in organizing said district, making surveys of the same and assessing benefits and damages and to pay other expenses necessary to be incurred before said board shall be empowered by section [242.450](#) to provide funds to pay the total cost of works and improvements of the district.

2. In case the boundary lines of the district be extended under the provisions of section [242.050](#), so as to include lands and other property not described and contained in the articles of association, the same uniform tax shall be made on such lands and other property as soon as same shall have been annexed and included in the district.

3. Such tax shall be due and payable as soon as assessed and if not paid by December thirty-first of the year in which it has been levied, the same shall become delinquent. It shall become a lien on the land and other property against which it is

assessed and shall be collected in the same manner as the annual installment of tax. In case the sum received from such assessment exceeds the total cost of items for which the same has been levied, the surplus shall be placed in the general fund of the district and used to pay cost of construction; provided, that if the corporation of the district be dissolved, as provided for in section [242.290](#), the amount of surplus, if there be any, shall be prorated and refunded to the landowners paying such uniform tax.

(RSMo 1939 § 12333, A.L. 1959 H.B. 314, A.L. 2008 S.B. 939)

Prior revisions: 1929 § 10752; 1919 § 4387; 1909 § 5538

8/28/2008

242.440. Cost of organization, how paid. — Nothing in sections [242.010](#) to [242.690](#) shall authorize or be construed to authorize any uniform tax or any tax of any kind to pay any expenses mentioned or referred to in section [242.430](#), in addition to or in excess of the uniform tax of one dollar per acre upon each acre of land within such districts mentioned in said section [242.430](#).

(L. 1943 p. 519 § 12362A, A.L. 1959 H.B. 314)

8/28/1959



242.450. Organization of commissioners — duties of secretary of board of supervisors — additional tax levy, when. — 1. After the list of lands, and other property, with the assessed benefits and the decree and judgment of court, have been filed in the office of the county recorder as provided in section [242.280](#), then the board of supervisors shall without any unnecessary delay, levy a tax of such portion of said benefits on all lands, railroad and other property in the district to which benefits have been assessed, as may be found necessary by the board of supervisors to pay the costs of the completion of the proposed works and improvements as shown in said plan for reclamation and in carrying out the objects of said district, and plus ten percent of said total amount for emergencies. The tax shall be apportioned to and levied on each tract of land or other property in said district in proportion to the benefits assessed and not in excess thereof.

2. Notwithstanding the limitations of sections [242.280](#) and [242.290](#) or any tax levy limitation contained in this chapter, the board of supervisors, having levied a tax pursuant to paragraph 1 of this section, may levy a new tax of such portion of the assessed benefits on all lands, railroad and other property in the district to which benefits have been assessed whenever it is found necessary by the board of supervisors to pay the cost of replacing, repairing and reconstructing drainage works and

improvements called for and completed pursuant to the plan for reclamation originally adopted by the board of supervisors and in carrying out the objects of said district. The tax levied under this paragraph shall be apportioned to and levied on each tract of land or other property in said district in proportion to the benefits assessed.

3. In case bonds are issued as provided herein and hereafter, then the amount of the interest, as estimated by said board of supervisors, which will accrue on such bonds shall be included and added to the tax levied under either paragraph 1 or 2 of this section, but the interest to accrue on account of the issuing of said bonds shall not be construed as a part of the costs of construction in determining whether or not the expenses and costs of making said improvements are or are not equal to or in excess of the benefits assessed.

4. The secretary of the board of supervisors, as soon as and whenever said total tax is levied, shall, at the expense of the district, prepare a list of all taxes levied, in the form of a well-bound book, which book shall be endorsed and named "Drainage Tax Record of _____ Drainage District _____", which endorsement shall also be printed or written at the top of each page in said book, and shall be signed and certified by the president and secretary of the board of supervisors, attested by the seal of the district, and the same shall thereafter become a permanent record in the office of said secretary.

(RSMo 1939 § 12340, A.L. 1977 S.B. 2)

Prior revisions: 1929 § 10759; 1919 § 4394; 1909 § 5519

8/28/1977

242.460. Levy of annual installment of tax — form of tax certificate. — 1. The said board of supervisors shall each year thereafter determine, order and levy the amount of the annual installment of the total taxes levied under section 242.450; which shall become due and be collected during said year at the same time that state and county taxes are due and collected, which said annual installment and levy shall be evidenced and certified by the said board not later than September thirtieth of each year to the collector of revenue of each county, or township, in which lands and other property of said district are situate.

2. The certificate of said installment tax shall be in substantially the following form:

State of Missouri,)
) ss
County of _____)
To _____ collector of the revenue of said county, or township:

This is to certify that by virtue and authority of the provisions of section 242.460, RSMo, the board of supervisors of " _____ drainage district of Missouri" have and do hereby levy the sum of \$ _____ as the annual installment of tax for the year 20 _____ of the total tax levied under the provisions of section 242.450, RSMo, which said total tax has heretofore been certified to the recorder of deeds of your county; and said board of supervisors of said drainage district, by and with the authority of section 242.490, RSMo, has levied also the sum of \$ _____ as a maintenance tax for said year; said annual installment of tax and maintenance tax on the real estate and other property situate in your county, or township, are set out in the following table, in which are: First, the names of the present owners of said lands and other property so far as now known; second, the descriptions of said lands and other property opposite the names of said owners; third, the amount of said installment of tax levied on each tract of real estate and other property, and fourth, the said amount of maintenance tax levied against the same.

The said taxes shall be collectible and payable the present year at the same time that state and county taxes are due and collected, and you are directed and ordered to demand and collect the said taxes at the same time you demand and collect the state and county taxes due on the same lands and other property, and this "drainage tax book" shall be your warrant and authority for making such demand and collection.

Witness the signature of the president of the said board of supervisors, attested by the seal of said district, and the signature of the secretary of said board, this _____ day of _____, A.D. 20_____.

(SEAL)

President of Board of
Supervisors.

Secretary of Board of Supervisors.

Then shall follow a table or schedule showing in properly ruled columns:

- (1) The names of the present owners of said lands and other property so far as now known;
- (2) The descriptions of the said lands and other property opposite the names of said owners;

- (3) The amount of said annual installment tax levied on each tract of land or piece of property;
- (4) The amount of maintenance tax;
- (5) A blank column in which the collector shall record the several amounts as collected by him;
- (6) A blank column in which the collector shall record the date of payment of the different sums;
- (7) A blank column in which the collector shall record the names of the person or persons paying the several amounts, if other than the person whose name appears in column one hereof.

3. The columns in which the annual installment tax and the maintenance tax, if any, appear shall be correctly totaled and the total amount shall correspond to the amount set out in the above-mentioned certificate. The said certificate and table shall be prepared in the form of a well-bound book, which shall be endorsed and named "Drainage Tax Book, _____ Drainage District _____ County, or _____ Township of _____ County, Missouri, for the year 20____.", which endorsement shall also be printed at the top of each page in said book.

(RSMo 1939 § 12341, A.L. 1953 p. 539, A.L. 2017 S.B. 112)

Prior revisions: 1929 § 10760; 1919 § 4395; 1909 § 5520

8/28/2017

242.470. Additional drainage tax levy, when. — 1. Where the works set out in the plan for reclamation of any drainage district is found insufficient to reclaim in whole or in part any or all of the land and other property of the district the board of supervisors shall have the right to formulate new or amended plans containing new ditches, levees or other works, or providing for the enlargement of existing ditches, levees or other works, and additional assessments may be made in conformity with the provisions of section [242.260](#), the same to be made in proportion to the increased benefits accruing to the lands and other property because of the additional works.

2. If it should be found at any time that the amount of total tax levied under the provisions of section [242.450](#) is insufficient to pay cost of works set out in the plan for reclamation or additional work done under the provisions of this section the board of supervisors may make an additional levy to provide funds to complete the work; provided, the total of all levies of such tax does not exceed the total amount of benefits assessed.

(RSMo 1939 § 12374)

Prior revisions: 1929 § 10793; 1919 § 4423; 1909 § 5505

8/28/1939



242.480. Issuance and payment of bonds — treasurer, duties. — 1. The board of supervisors may, if in their judgment it seems best, issue bonds not to exceed ninety percent of the total amount of the taxes levied under the provisions of section [242.450](#), in denominations of not less than one hundred dollars, bearing interest from date at a rate not to exceed six percent per annum, payable semiannually, to mature at annual intervals within twenty years, commencing after a period of years not later than five years, to be determined by the board of supervisors, both principal and interest payable at some convenient banking house or trust company's office to be named in said bonds, which said bonds shall be signed by the president of the board of supervisors, attested with the seal of said district and by the signature of the secretary of the said board.

2. All of said bonds shall be executed and delivered to the treasurer of said district, who shall sell the same in such quantities and at such dates as the board of supervisors may deem necessary to meet the payments for the works and improvements in the district. Said bonds shall not be sold for less than ninety-five cents on the dollar, with accrued interest, shall show on their face the purpose for which they are issued, and shall be payable out of money derived from the aforesaid taxes.

3. A sufficient amount of the drainage tax shall be appropriated by the board of supervisors for the purpose of paying the principal and interest of the said bonds and the same shall, when collected, be preserved in a separate fund for that purpose and no other. All bonds and coupons not paid at maturity shall bear interest at the rate of six percent per annum from maturity until paid, or until sufficient funds have been deposited at the place of payment and the said interest shall be appropriated by the board of supervisors out of the penalties and interest collected on delinquent taxes or any other available funds of the district. Any expense incurred in paying said bonds and interest thereon and a reasonable compensation to the bank or trust company for paying same, shall be paid out of other funds in the hands of the treasurer and collected for the purpose of meeting the expenses of administration.

4. It shall be the duty of said board of supervisors in making the annual tax levy, as heretofore provided, to take into account the maturing bonds and interest on all bonds, and to make ample provisions in advance for the payment thereof. In case the

proceeds of the original tax levy made under the provisions of section 242.450 are not sufficient to pay the principal and interest of all bonds issued, then the board of supervisors shall make such additional levy or levies upon benefits assessed as are necessary for this purpose, and under no circumstances shall any tax levies be made that will in any manner or to any extent impair the security of said bonds or the fund available for the payment of the principal and interest of the same.

5. Said treasurer shall, at the time of the receipt by him of said bonds, execute and deliver to the president of the board of supervisors of the said district, a bond with good and sufficient sureties, to be approved by the said board of supervisors, conditioned that he shall account for and pay over as required by law and as ordered to do by said board of supervisors any and all money received by him on the sale of such bonds, or any of them, and that he will only sell and deliver such bonds to the purchaser or purchasers thereof under and according to the terms herein prescribed, and that he will return, duly cancelled, any and all bonds not sold to the board of supervisors when ordered by said board so to do, which said bond shall remain in the custody of the said president of said board of supervisors, who shall produce the same for inspection or for the use as evidence whenever and wherever legally requested so to do.

6. The said treasurer shall promptly report all sales of bonds to the board of supervisors, which board shall, at reasonable times thereafter, prepare and issue warrants in substantially the forms provided in section 242.210 for the payment of the maturing bonds so sold and the interest payments coming due on all bonds sold. Each of said warrants shall specify what bonds and accruing interest it is to pay, and the said treasurer shall place sufficient funds at the place of payment to pay the maturing bonds and coupons when due as well as a reasonable compensation to the bank or trust company for paying same.

7. The successor in office of any such treasurer shall not be entitled to said bonds or the proceeds thereof until he shall have complied with all the foregoing provisions applicable to his predecessor in office.

8. The aforesaid bond of said treasurer, may, if the said board shall so direct, be furnished by a surety or bonding company, which may be approved by said board of supervisors; provided, if it should be deemed more expedient to the board of supervisors, as to money derived from the sale of bonds issued, said board may, by resolution, select some suitable bank or banks or other depository, as temporary treasurer or treasurers, to hold and disburse said moneys on the orders of the board as

the work progresses, until such fund is exhausted or transferred to the treasurer by order of the said board of supervisors.

9. The funds derived from the sale of said bonds or any of them shall be used for the purpose of paying the cost of the drainage works and improvements and such costs, expenses, fees and salaries as may be authorized by law and used for no other purpose.

(RSMo 1939 § 12369)

Prior revisions: 1929 § 10788; 1919 § 4418; 1909 § 5525

CROSS REFERENCES:

Bond issues, proceeds and moneys for interest and sinking fund to be kept separate, 108.180 to 108.230

Funding and refunding bonds authorized, payment thereof, 108.140 to 108.160

8/28/1939

242.485. Additional bond issue authorized, when — form of ballot. — 1. The board of supervisors may, if in their judgment it seems best, issue additional bonds which do not exceed ninety percent of the amount of new taxes levied pursuant to paragraph 2 of section [242.450](#). The funds derived from the sale of said bonds shall be used only to pay the costs of replacing, repairing, and reconstructing the drainage works and improvements called for and completed pursuant to the plan for reclamation originally adopted by the board of supervisors.

2. The board of supervisors shall issue such additional bonds only if, at a meeting called for such purpose, the issuance of the bonds obtains the approval of the owners of two-thirds of the acreage in the district having benefits assessed against it. The owners of property within the district shall vote at such meeting in the manner provided in sections [242.150](#) and [242.160](#).

3. Notice for the meeting referred to in paragraph 2 shall be in substantially the following form:

NOTICE OF MEETING OF _____ DRAINAGE DISTRICT

Notice is hereby given to owners of land and other property in _____ drainage district of Missouri that a meeting will be held on _____, 20_____, at _____ o'clock at _____ in _____ County for the purpose of approving the issuance of bonds to finance the cost of replacing, repairing and reconstructing the drainage works and improvements called for and contemplated

in the plan for reclamation originally adopted by the board of supervisors, and transacting such further business as may come before said meeting. The meeting will be open to the public.

Done by order of the Board of Supervisors this _____ day of _____, 20_____.

Secretary of the Board of Supervisors

4. The secretary shall cause the notice of the meeting to be published once a week for two consecutive weeks in some newspaper published in each county in which lands of the district are situated, the last insertion to be at least ten days before the day of such meeting.

5. The bonds shall be issued in all other respects pursuant to and in accordance with the provisions of section [242.480](#).

(L. 1977 S.B. 2)

8/28/1977

242.490. Levy of maintenance tax — procedure. — 1. To maintain and preserve the ditches, drains, levees or other improvements made pursuant to sections [242.010](#) to [242.690](#) and to strengthen, repair and restore the same, when needed, and for the purpose of defraying the current expenses of the district, the board of supervisors may, upon the completion of such improvements and on or before the first day of September in each year thereafter, levy a tax upon each tract or parcel of land and upon corporate property within the district to be known as a "maintenance tax". The maintenance tax shall be apportioned upon the basis of the net assessments of benefits accruing for original construction or subsequently adjusted reassessments, shall not exceed twenty percent thereof in any one year and shall be certified to the collector of the revenue of each county in which lands of the district are situated in the same book in like manner and at the same time as the annual installment tax is certified, but in a separate column, under the heading "maintenance tax".

2. The collector shall demand and collect the maintenance tax and make return thereof and shall receive the same compensation therefor and be liable for the same penalties for failure or neglect so to do as is provided in this section for the annual installment tax, except that after all annual installments of the total tax have become due, and thereafter it is only desired and necessary to levy and collect such maintenance tax, the board of supervisors of such drainage districts may, by resolution, provide that in the tax books containing the maintenance tax, it shall be sufficient if the several governmental lots, forty-acre tracts or other subdivisions of

land as they appear in the decree of the circuit court organizing the district, be conveniently combined and described together, if contiguous, according to each ownership, and the names of the owners thereof as they may appear in the deed records, may be used in such tax book, and the certificate thereof, as provided by section 242.460 may conform thereto. The amount of the maintenance tax levied against such combined tracts shall be the same as the aggregate of the tax if levied against each separate tract and errors in the combined descriptions of such lands or in the names of the owners thereof, or in the amount of such maintenance tax as they appear in such book, shall not affect the validity of such tax or the lien thereof, and any such errors may at any time be corrected by resolution of the board of supervisors of such drainage district.

(RSMo 1939 § 12370, A.L. 1990 S.B. 777)

Prior revisions: 1929 § 10789; 1919 § 4419

8/28/1990



242.492. Processing fee authorized for certain assessed tracts, amount. — In addition to any maintenance tax imposed under section 242.490, the board of supervisors may set an annual processing fee for assessed tracts when the board determines that the costs of preparation and processing of the district's maintenance tax statement for such tracts exceed the amount of tax imposed. The amount of the fee shall be determined by the board of supervisors at the meeting in which the board sets the maintenance tax under section 242.490. Such fee shall be used solely to reimburse the district for the costs associated with processing annual maintenance statements.

(L. 2006 S.B. 1002)

8/28/2006

242.500. Petition for reassessment of benefits — appointment of commissioners.
— 1. Whenever the board of supervisors of any district in existence as of August 28, 2008, or organized under this chapter after August 28, 2008, on behalf of the district, or the owners of twenty-five percent or more of the acreage of the lands in the district shall file a petition with the circuit clerk in whose office the articles of association were filed, stating that there has been a material change in the values of all or some of the property in the district since the last previous assessment of benefits or readjustment of the assessment of benefits and praying for a readjustment of the assessment of benefits of the property identified in the petition for the purpose of making a more equitable basis for the levy of the maintenance tax or for the purpose of levying a new tax to pay

the costs of the completion of the proposed works and improvements as shown in the supplemental plan for reclamation adopted by the board of supervisors pursuant to section 242.230, or for both of the aforesaid purposes, the circuit clerk shall give notice of the filing and hearing of the petition in the manner and for the time provided for in section 242.030. The notice may be in the following form:

Notice is hereby given to all persons interested in the lands and property included within the _____ district that a petition has been filed in the office of the clerk of the circuit court of _____ County, _____, praying for a readjustment of the assessment of benefits of all or some of the property in the district as identified in the petition for the purpose(s) of _____, and that the petition will be heard by the circuit court on the _____ day of _____, 20____.

Clerk of the circuit court _____ County

Upon hearing of the petition if the court finds that there has been a material change in the values of some or all of the property in the district as identified in the petition since the last previous assessment of benefits, the court shall order that there be made a readjustment of the assessment of benefits for the lands identified in the petition for the purpose of providing a basis upon which to levy the maintenance tax of the district or for the purpose of levying a new tax to pay the costs of the completion of the proposed works and improvements as shown in the supplemental plan for reclamation adopted by the board of supervisors pursuant to section 242.230, or for both of the aforesaid purposes.

2. Thereupon the court shall appoint three commissioners, possessing the qualifications of commissioners appointed under section 242.240 to make such readjustment of assessments in the manner provided in section 242.260 with respect to the lands identified in the petition and the commissioners shall make their report, and the same proceedings shall be had thereon, as nearly as may be, as are herein provided for the assessment of benefits accruing for original construction; provided, that in making the readjustment of the assessment of benefits, the commissioners shall not be limited to the aggregate amount of the original or any readjustment of the assessment of benefits, and may assess the amount of benefits that will accrue from carrying out and putting into effect such supplemental plan for reclamation adopted by the board of supervisors pursuant to section 242.230. After the making of such readjustment, the limitation of twenty percent of the annual maintenance tax which may be levied shall apply to the amount of benefits as readjusted, and the limitation of the tax which may

be levied for payment of the costs of the completion of the proposed works and improvements as shown in the aforesaid supplemental plan for reclamation shall apply to the amount of the benefits as readjusted. There shall be no such readjustment of benefits oftener than once in a year. The list of lands, and other property, with the readjusted assessed benefits and the decree and judgment of the court, shall be filed in the office of the county recorder as provided in section [242.280](#).

(RSMo 1939 § 12371, A.L. 1977 S.B. 2, A.L. 1978 H.B. 1634, A.L. 1985 H.B. 378, A.L. 1990 S.B. 777, A.L. 2008 S.B. 939)

Prior revisions: 1929 § 10709; 1919 § 4420

8/28/2008

242.502. Supervisors to levy tax on readjusted benefits — levy, how determined.

— 1. If the board of supervisors deem it necessary, the board shall, without unnecessary delay, levy a tax of such portion of said readjusted assessed benefits on all lands, railroad and other property in the district to which benefits have been assessed, as may be found necessary by the board of supervisors to pay the costs of the completion of the proposed works and improvements as shown in the supplemental plan for reclamation adopted by the board of supervisors pursuant to section [242.230](#) and in carrying out the objects of said district, and plus ten percent of said total amount for emergencies. The tax levied pursuant to this section shall be apportioned to and be levied on each tract of land or property in said district in proportion to the readjusted assessed benefits, provided that the amount of such tax levied pursuant to this section, when added to any taxes previously levied and remaining unpaid at the time of the levy provided for in this section, shall not exceed the total amount of the readjusted assessed benefits.

2. The tax shall be levied in the manner provided in sections [242.450](#) and [242.460](#).

(L. 1977 S.B. 2)

8/28/1977



242.504. Supervisors may issue bonds, limitation on. — 1. The board of supervisors may, if in their judgment it seems best, issue bonds which, when added to the bonded indebtedness then outstanding, do not exceed ninety percent of the total amount of taxes levied pursuant to section [242.502](#). The funds derived from the sale of said bonds shall be used to pay the costs of drainage works and improvements as shown in the supplemental plan for reclamation adopted by the board of supervisors pursuant to section [242.230](#) and to refund outstanding protested warrants.

2. The bonds shall be issued pursuant to and in accordance with the provisions of section [242.480](#).

(L. 1977 S.B. 2)

8/28/1977

242.506. Supervisors may levy new tax — procedure. — 1. Notwithstanding the limitations of sections [242.280](#) and [242.290](#) or any tax levy limitation contained in this chapter, the board of supervisors, having levied a tax pursuant to section [242.502](#), may levy a new tax and, if necessary, issue additional bonds whenever it is found necessary by the board of supervisors to pay the cost of replacing, repairing and reconstructing the drainage works and improvements called for and completed pursuant to the supplemental plan for reclamation adopted by the board of supervisors. Any tax levied pursuant to this section shall be apportioned to and levied on each tract of land or property in said district in proportion to the readjusted assessed benefits. The tax authorized by this section shall be levied in the manner provided by sections [242.450](#) and [242.460](#).

2. The additional bonds authorized in paragraph 1 of this section shall be issued pursuant to and in accordance with the provisions of sections [242.480](#) and [242.485](#), provided that the additional bonds do not exceed ninety percent of the amount of new taxes levied pursuant to this section.

(L. 1977 S.B. 2)

8/28/1977

242.510. Districts organized prior to April 8, 1905 — tax levy. — In all cases where drainage districts have been organized under proceedings in any circuit court of the state, prior to April 8, 1905, the board of supervisors, instead of having commissioners appointed to assess benefits or damages, may, for the purpose of constructing drainage works in their district, as well as for purpose of maintaining and keeping same in repair, and for paying principal and interest upon bonds, if any are issued, levy each year, so long as necessary, a level rate of taxation, not exceeding one dollar in any one year, upon each acre of the lands in said district, and which levy shall be made and certified by such board to the collector of revenue of the proper county not later than the first day of September of each year, and which shall by the clerk be extended upon the tax books of the county for that year and collected by the collector in the same manner as other taxes.

(RSMo 1939 § 12386)

Prior revisions: 1929 § 10805; 1919 § 4435; 1909 § 5535

8/28/1939



242.520. Districts organized prior to April 8, 1905 — limitation on indebtedness.

— 1. In drainage districts so making level assessments, the board of supervisors thereof may, with the consent of the owners of not less than three-fifths of the lands embraced in such districts, given at an election held in the district for that purpose, upon a notice, the same as required for the election of supervisors, for the purpose of constructing new works or of repairing or extending old ones, as well as for making surveys and acquiring rights-of-way, borrow upon the credit of the district a sum or sums the principal of which shall at no time exceed six dollars for each acre in the district. In voting at such an election, or at any election by the landowners, any landowner, not present, may vote by written proxy.

2. Loans negotiated under this section shall not run longer than twenty years nor bear more than six percent semiannual interest, nor shall the bonds be sold for less than ninety cents on the dollar clear to the district. Upon negotiating any such loan, it shall be the duty of the board of supervisors to make a levy of such sum, not exceeding fifty cents per acre in any one year, as will be sufficient to pay the principal and interest on such bonds as they mature.

(RSMo 1939 § 12387)

Prior revisions: 1929 § 10806; 1919 § 4436; 1909 § 5536

8/28/1939

242.530. Districts formed prior to April 8, 1905, may proceed as heretofore. —

Nothing contained in sections [242.510](#) and [242.520](#) shall be construed as preventing the board of supervisors and other officers of any drainage district formed prior to April 8, 1905, from proceeding under the act to which this is amendatory, and to that end they may prepare and file revised topographical surveys and plans of drainage for their district, such revised surveys and plans to embrace and use as far as practicable those already made.

(RSMo 1939 § 12388)

Prior revisions: 1929 § 10807; 1919 § 4437; 1909 § 5537

8/28/1939

242.540. Collection of drainage tax. — 1. It shall be the duty of the collector of revenue of each county in which lands or other property of any drainage district

organized under sections [242.010 to 242.690](#) are situate to receive the drainage tax book each year, and he is hereby empowered and it shall be his duty to promptly and faithfully collect the tax therein set out and to exercise all due diligence in so doing. He is further directed and ordered to demand and collect such taxes at the same time that he demands and collects state and county taxes due on the same lands and other properties. Where any tract or part thereof has been divided and sold or transferred, the collector shall receive taxes on any part of any tract, piece or parcel of land or other property, charged with such taxes and give his receipt accordingly. The above and foregoing drainage tax book shall be the warrant and authority of the collector for making such demand and collection.

2. The said collector shall make due return of all drainage tax books each year to the secretary of the board of supervisors of the aforesaid drainage district, and shall pay over and account for all moneys collected thereon each year to the treasurer of said district at the same time when he pays over state and county taxes. Said collector shall in said drainage tax book, verify by affidavit his said return.

3. The said secretary shall each year, within ten days after the return of said collector is delivered to him, prepare and certify to said collector a drainage back tax book containing the list of lands and other property so returned by said collector as delinquent, deliver the same to him and take his receipt therefor, and said collector shall proceed to collect such delinquent drainage taxes and demand payment therefor in the same manner as herein provided for the collection of current drainage taxes.

4. Before receiving the aforesaid drainage tax book the collector of each county in which lands or other property of the drainage district are located shall execute to the board of supervisors of the district a bond with at least two good and sufficient sureties in a sum that is equal to the probable amount of any annual installment of said tax to be collected by him during any one year, conditioned that said collector shall pay over and account for all taxes so collected by him according to law. Said bond after approval by said board of supervisors shall be deposited with the secretary of the board of supervisors, who shall be custodian thereof and who shall produce same for inspection and use as evidence whenever and wherever lawfully requested to do.

(RSMo 1939 § 12342)

Prior revisions: 1929 § 10761; 1919 § 4396; 1909 § 5520

8/28/1939



242.550. Collector — failure to pay tax, penalty. — If any county collector of the revenues refuses, fails or neglects to make prompt payment of the tax or any part thereof collected under sections [242.010 to 242.690](#) to the secretary, then he shall pay a penalty of ten percent on the amount of his delinquency. The penalty shall at once become due and payable and both he and his securities shall be liable therefor on his bond.

(RSMo 1939 § 12344, A.L. 1955 p. 605, A.L. 1961 p. 444)

Prior revisions: 1929 § 10763; 1919 § 4398; 1909 § 5521

8/28/1961

242.560. Current and delinquent taxes — collection — procedure. — 1. In counties where the provisions of [chapter 65](#) are, or may hereafter be in force, the secretary of the board of supervisors shall extend all drainage taxes under the provisions of sections [242.010 to 242.690](#) on separate tax books for the respective townships in which such lands are situate, and such tax books shall be certified to the collector-treasurer at the same time and in the same manner as provided for county collectors.

2. Such taxes shall be collected by such collector-treasurer at the same time and in the same manner as state and county taxes are collected, and each collector-treasurer shall give bond, have the same authority to collect such taxes, receive the same compensation therefor and pay over such taxes to the secretary of board of supervisors, as provided for county collectors under said sections, and shall be subject to the same penalties and liabilities. Such collector-treasurer shall make due return of such tax books under oath in the same manner as required of county collectors.

3. The delinquent drainage taxes shall be certified by the secretary of the board of supervisors to the county collector-treasurer of delinquent taxes, who shall collect such delinquent drainage taxes at the same time and in the same manner as is herein provided for the collection of the delinquent drainage taxes in counties not under the provisions of [chapter 65](#). The said collector-treasurer of delinquent taxes shall give bond, have the same authority to collect such taxes, receive the same compensation therefor and pay over the said taxes to the treasurer of the drainage district as is provided for county collectors under sections [242.010 to 242.690](#), and shall be subject to the same penalties and liabilities.

4. All township drainage tax books, and the return of the collectors of such books, shall be taken as prima facie evidence in all courts of all matters therein contained, and that the delinquent tax shown in such books was properly levied and extended against such lands and remains unpaid. The lien of such tax shall be enforced and suits to

collect such delinquent tax shall be instituted and prosecuted in the same manner provided by said sections, except such suits shall be instituted by the drainage district on tax bills duly made out and certified by the county collector-treasurer of delinquent taxes.

(RSMo 1939 § 12377, A.L. 2005 H.B. 58 merged with S.B. 210)

Prior revisions: 1929 § 10796; 1919 § 4426

8/28/2005

242.570. Payment of drainage tax — procedure. — 1. Any person or corporation, copartnership or other parties owning lands and other property assessed for the construction of any ditch or other improvement under the provisions of sections [242.010 to 242.690](#), shall have the privilege of paying such tax assessment to the treasurer of the board of supervisors at any time on or before a date to be fixed by the board of supervisors and the amount to be paid shall be the full amount of the tax levied, less any amount added thereto to meet interest.

2. When such tax assessment has been paid, the secretary of the board shall enter upon the drainage tax record opposite each tract for which payment is made the words "paid in full", and such tax assessment shall be deemed satisfied, and the secretary of the board of supervisors shall also make or cause to be made the same entry opposite each tract for which payment is made in the table included in the certificate filed in the office of the recorder of deeds, under the provisions of section [242.590](#).

(RSMo 1939 § 12378)

Prior revisions: 1929 § 10797; 1919 § 4427

8/28/1939



242.580. Drainage tax, when delinquent — penalty. — All taxes provided for in sections [242.010 to 242.690](#) remaining unpaid after December thirty-first of the year for which said taxes were levied shall become delinquent and bear a penalty of one percent per month on the amount of said taxes from date of delinquency until paid. In computing said penalty each fractional part of a month shall be counted as a full month.

(RSMo 1939 § 12343)

Prior revisions: 1929 § 10762; 1919 § 4397

8/28/1939

 President.

(Seal)

Attest _____,

Secretary.

2. The certificate and tables specified in this section shall be prepared in a well-bound book and filed in the office of each of the recorders of the counties having lands in said district as the same may affect the land or other property in his county, where the same shall become a permanent record of the office. The said book or books shall be prepared by the secretary of the board of supervisors at the expense of the drainage district, shall be designated as the "Drainage Tax Record", and each recorder shall receive a fee of one dollar for filing said book and preserving the same.

 (RSMo 1939 § 12345)

Prior revisions: 1929 § 10764; 1919 § 4399; 1909 § 5523

8/28/1939

242.600. Suits for taxes — evidence — procedure. — 1. The drainage tax book of the district, as returned by the collector of the revenue to the secretary of the board of supervisors of the drainage district, shall be prima facie evidence in all courts of all matters therein contained.

2. The liens established and declared in the preceding sections may and shall be enforced by an action on delinquent tax bills, made and certified by the county collector, which action shall be instituted in the circuit court without regard to the amount of the claim within six months after December thirty-first of the year for which said taxes were levied. The suit shall be brought in the corporate name of the district by its attorney against the land or lands, property or properties, on which such drainage tax has not been paid. The suit shall be brought in the county in which the property is situate, except when the tract or property sued upon be in more than one county, in which event the suit may be brought on the whole tract, parcel or property, in any county in which any portion thereof may be situate. The pleadings, process, proceedings, practice and sales, in cases arising under sections [242.010](#) to [242.690](#), shall, except as herein provided, be the same as in an action for the enforcement of the state's lien for delinquent general taxes upon real estate.

3. All sales of lands made under this section shall be by the sheriff, as is now provided under the general revenue law. All sheriff's deeds executed and delivered pursuant to said sections shall have the same probative force as deeds executed under

judgments for delinquent general state taxes and in actions instituted under said sections the same abbreviations shall be allowed and the aforesaid drainage tax book shall have the same probative effect as the back tax bill has in actions for the enforcement of the state's lien for general taxes upon real estate. The title acquired through any sale of lands or other property under the aforesaid proceedings shall be subject to the lien of all subsequent annual installments of drainage tax.

4. In all suits for the collection of delinquent taxes, the judgment for said delinquent taxes and penalty shall also include all costs of suit and a reasonable attorney's fee to be fixed by the court, recoverable the same as the delinquent tax and in the same suit. The proceeds of sales made under and by virtue of said sections shall be paid at once to the aforesaid treasurer and shall be accounted for by him the same as the drainage taxes.

(RSMo 1939 § 12346)

Prior revisions: 1929 § 10765; 1919 § 4400; 1909 § 5524

(1955) Where acts of board in levying tax were acts of de facto officers, the validity of such acts may not be questioned in action to collect tax on ground supervisors were not legally elected. *Ft. Osage Dr. Dist. v. Jackson Co. (Mo.)*, 275 S.W.2d 326.

(1955) Land tax collection law held not applicable to action by drainage district to collect tax from county. *Ft. Osage Drainage District v. Jackson County (Mo.)*, 275 S.W.2d 326.

(1955) District could maintain common law action to recover drainage tax from county chargeable with maintenance of public highways. *Ft. Osage Drainage Dist. v. Jackson County (Mo.)*, 275 S.W.2d 326

(1958) District in its corporate capacity, rather than county collector, held proper party to action to collect drainage maintenance tax and its attorney was entitled to an allowance of a fee. *Fort Osage Drainage Dist. of Jackson Co. v. Foley (A.)*, 319 S.W.2d 687.

8/28/1939



242.610. Action instituted against whom — notice filed, effect. — 1. Whenever any drainage or levee district heretofore or hereafter organized or reorganized and existing under any of the drainage or levee laws of the state of Missouri, shall hereafter institute an action, in the manner now provided by law, to enforce the collection of unpaid delinquent annual assessments levied by it, such district shall cause said action

to be instituted against the last record owner or owners of the land against which the delinquent assessments sued for were levied, as shown by the records in the recorder's office of the county in which the land is located and shall also join as parties defendant the trustee and beneficiaries shown by all recorded deeds of trust, mortgages or vendors' liens, which create a lien on the land involved in any such suit that may be instituted and no other parties shall be necessary or required, except as herein provided.

2. On the same day that any such action shall be filed for and in behalf of any such district, its attorney, so filing such action, shall also file in the recorder's office of the county where such land is located, a written notice, verified by him showing in tabulated form, the docket number of each of the respective suits that may be filed in the office of the clerk of the circuit court, the name of the plaintiff district, the names of all defendants in each suit filed, a description of the land included in each suit, the years in which the delinquent assessments were levied and the amount then due on each parcel of land described in said notice, when such suit was filed. Such notice shall be filed by the recorder and recorded by him in a well-bound book as other instruments are recorded in his office. The recorder shall be entitled to a fee of one dollar for filing and recording such notice, to be paid by district filing same. Such notice, when so filed, shall constitute due and proper notice to all parties, except those required to be made parties defendant as herein provided, then having or asserting, or who may subsequently acquire or assert any right, title, claim or interest in and to said land, of the filing of said suit to enforce the collection of said special assessments, irrespective of whether any such parties then hold unrecorded conveyances affecting the title to the land included in such suit, including an assignment of any note secured by deed of trust, mortgage or vendors' lien on the said land, or whether they have acquired by conveyances some such right, title, claim and interest in and to said land, or an assignment of any note secured by deed of trust, mortgage or vendors' lien on said land, subsequent to the filing of said notice.

3. If anyone shall, at the time of filing such suit and notice, hold an unrecorded instrument or conveyance affecting the title to the land included in such suit or if anyone shall acquire any such right, title, claim or interest in and to said land so included in any such suit, after the filing of said suit and notice, or if anyone shall become the assignee of notes secured by deeds of trust, mortgages or vendors' liens on the land included in any such suit, each of them shall have the right and it shall be their duty to intervene as parties defendant in any such suit so filed on or before the first day of the return term of the summons issued when said suit is filed, and make defense to said suit, if they so desire. Upon their failure so to do, they shall be bound

by any judgment that may be rendered by the court in any said suit just as though they had been joined as defendants and served with process therein and their interest, if any, along with the interest of all named defendants in and to said land shall, if judgment be rendered for plaintiff, be sold on execution in the manner now provided by law and all the right, title, claim and interest of all parties in and to said land, shall pass to and be acquired by the purchaser of said land at the execution sale based upon the judgment obtained in said suit, unless said delinquent assessments so sued for shall have been previously paid.

(L. 1941 p. 351 § 1)

8/28/1941

242.620. Protection of drainage district lien. — 1. To protect said lien of said drainage taxes upon the lands and other property against which said taxes shall be levied, in any case where delinquent lands are offered for sale for such delinquent taxes, and the amount of the tax due, together with interest, cost, and penalties is not bid for the same, the board of supervisors shall have authority to bid or cause to be bid, not to exceed the whole amount due thereon, as aforesaid, in the name of the drainage district, and in case such bid is the highest bid, the sheriff shall sell and convey such lands to such drainage district, and such lands shall thereupon become the property of the drainage district, and may be held, disposed of, and conveyed by the board of supervisors at such price and on such terms, as in the discretion of the board of supervisors may be to the best interest of the district.

2. If such lands, or other property, are sold by the board of supervisors the purchasers thereof shall take the same subject to all said drainage taxes thereafter becoming due, the same as all other lands and other property in the district.

3. The board of supervisors shall also have authority to protect the lien of the drainage district for drainage taxes by paying the general, state, county, school and road taxes, and in case the lien of the state for such general, state, county, school and road taxes is foreclosed, and the land, or other property, sold for such general taxes, and the said drainage district is not made a party to the proceedings foreclosing the said lien for such general taxes, the said board of supervisors shall be authorized at any time within one year after said sale to redeem such lands, by paying not to exceed the whole amount of such taxes, together with penalties and costs accrued thereon.

(RSMo 1939 § 12347)

Prior revision: 1929 § 10766

CROSS REFERENCE:

Delinquent taxes, drainage district may redeem lands, when, 140.380

8/28/1939

242.630. Unpaid warrants to draw interest. — Any warrant issued under sections [242.010 to 242.690](#) that is not paid when presented to the treasurer of the board of supervisors of the district, because of lack of funds in the treasury, such fact shall be endorsed on the back of such warrant, and such warrant shall draw interest thereafter at a rate of not more than twelve percent per annum, until such time as there is any money on hand to pay the amount of the warrant and the interest then accumulated, but no interest shall be allowed on warrants after such time when sufficient funds are in the treasury to pay the endorsed warrants and interest.

(RSMo 1939 § 12356, A.L. 1985 H.B. 378)

Prior revisions: 1929 § 10775; 1919 § 4408; 1909 § 5532

8/28/1985



242.640. Surety bonds payable to district. — All surety bonds required to be given by sections [242.010 to 242.690](#) shall be made payable to the district by its corporate name, in which name all suits shall be instituted and prosecuted. All penalties herein named shall be payable to and recoverable by said district. All bonds required by said sections shall cover defaults of deputies, clerks or assistants of the officers appointing them.

(RSMo 1939 § 12357)

Prior revisions: 1929 § 10776; 1919 § 4409; 1909 § 5522

8/28/1939

242.650. Change of venue limitation. — 1. No change of venue shall be allowed in any of the proceedings had under the provisions of sections [242.010 to 242.690](#), except where the judge of the court in which the articles of association have been filed shall be disqualified for any of the reasons stated in the statute of this state relating to the change of venue in civil cases.

2. If the judge of such court is disqualified or is charged by any person interested in the formation of said district with being disqualified for any of the reasons stated in the statutes, it shall be the duty of said judge to cause another judge to be transferred or assigned to hear the cause in the same manner as other civil cases. Such judge shall

retain jurisdiction in such reclamation proceedings only until the disqualification of the regular judge of the circuit court shall have been removed.

(RSMo 1939 § 12358, A.L. 1978 H.B. 1634)

Prior revisions: 1929 § 10777; 1919 § 4410

Effective 1-2-79

1/2/1979

242.660. Action not to abate by reason of death of party. — No action under sections [242.010](#) to [242.690](#) shall abate by reason of the death or disability of any party to any proceeding, but upon suggestion of such death or disability the cause shall be immediately revived in the name of the heirs, devisees or their legal representatives, and summons shall be served on such heirs, devisees and legal representatives at least five days before the day set for hearing the cause, and said summons may be served in vacation or term time; if the heirs, devisees or legal representatives of the deceased party are nonresidents, notice by publication shall be given them in a manner and for the time provided for in section [242.360](#), and the cause shall then proceed in all respects as in case of the original parties being in court.

(RSMo 1939 § 12359)

Prior revisions: 1929 § 10778; 1919 § 4411; 1909 § 5502

8/28/1939



242.670. Limited appeal from assessments. — No appeal from any action of the circuit court had under sections [242.010](#) to [242.690](#) shall be permitted to act as supersedeas or to delay any action or the prosecution of any work begun under the provisions of this law.

(RSMo 1939 § 12360)

Prior revisions: 1929 § 10779; 1919 § 4412

8/28/1939

242.680. Existing rights not affected by sections 242.010 to 242.690. — Where proceedings have been begun under the provisions of the sections repealed by the act of April 8, 1905, they may be proceeded with and completed under the provisions of sections [242.010](#) to [242.690](#); provided, that all liens, remedies and processes for the collection of taxes provided for in said sections, shall, so far as applicable, be available for the collection of taxes levied and bonds issued under the sections thereby repealed;

provided further, that in all cases where drainage districts have been incorporated under the said sections repealed and the work of drainage has been commenced or completed, in whole or in part, no rights or obligations incurred by district or individual shall be nullified, invalidated or for naught held.

(RSMo 1939 § 12385)

Prior revisions: 1929 § 10804; 1919 § 4434; 1909 § 5534

8/28/1939

242.690. Prior remedies not impaired by sections 242.010 to 242.690. — 1. The repeal of article 1 of [chapter 41](#), RSMo 1909 and the repeal of an act amending and adding to said article 1, enacted in 1911 and found on pages 205 to 222 of the laws of Missouri of 1911, shall not have the effect of suspending, abating, abridging, impairing, vitiating or nullifying any right, power, remedy or lien heretofore given, created or conferred upon any drainage district heretofore organized or in process of organization at the time of passage of sections [242.010 to 242.690](#), under any law of this state, but all such rights, powers, remedies and liens are hereby directly preserved to all such drainage districts; nor shall the repealing of said article 1 as amended and added to by the 46th general assembly in 1911 have the effect of suspending, abridging, abating or nullifying any proceeding or proceedings now pending in any court of this state or of the United States; nor shall the repealing of existing laws have the effect of impairing, invalidating, discharging, changing, modifying or destroying any obligation, contract or undertaking, entered into by, or with any drainage district now organized and existing under any law in this state, but all such obligations, contracts and undertakings so entered into, shall be and remain inviolate.

2. All rights, powers, liens and remedies now existing in behalf of any drainage district of this state, may be enforced and made available in the manner and by the means and mode now provided by law, or such rights, powers, liens and remedies may be enforced and made available under the provisions of said sections, if applicable, at the election of the drainage district. Sections [242.010 to 242.690](#) are hereby declared to be remedial in character and purpose, and shall be liberally construed by the courts in carrying out this legislative intent and purpose.

(RSMo 1939 § 12389)

Prior revisions: 1929 § 10808; 1919 § 4438

8/28/1939



242.692. Major district and minor district defined. — The drainage district organized or reorganized under the provisions of sections [242.010 to 242.690](#), which desires to annex itself to another drainage district also so organized, either for outlet or other purposes, including having the petitioning district become a part of the district to which the petition is addressed shall be hereinafter referred to as the "minor district". The drainage district to which petition is addressed shall hereinafter be known as the "major district".

(L. 1961 p. 444 § 1)

8/28/1961

242.694. Petition for annexation by minor district — service. — The board of supervisors of any minor district may in behalf of said district and the landowners therein, file a petition praying to be annexed to a major drainage district organized under the same provisions of law, provided the major and the minor district either have a common outlet, or the major district does have an outlet for the minor district or they furnish same; the petition shall be headed in the name of the minor district and addressed to the major district and shall set out in plain language the desire of the minor district to be annexed to the major district; it shall state that the boundaries, owners of lands and other property in the minor district to be as set out in the organization and records of the minor district, and praying to be annexed to the major district. Said petition is to be filed in the office of the circuit clerk of the circuit court incorporating the major district, and the clerk shall cause a certified copy of said petition to be served upon the secretary of the major district at the office of the major district, wherever located.

(L. 1961 p. 444 § 2)

8/28/1961

242.696. Acceptance or rejection of petition — notice — objections, hearing, decree — transfer of records and property. — 1. The board of supervisors of the major district shall, within ninety days after the service of a certified copy of petition upon the secretary of the major district at its office, by order of its board either agree to accept the petitioning district or to reject same under the provisions of sections [242.692 to 242.699](#). In either event, a certified copy of its action shall be filed by its secretary in the office of the clerk of the circuit court in which the petition is pending within twenty days after the board action.

2. In the event the action of the major district shall be to agree and accept the petition to annex minor district to major district, the clerk of the circuit court shall give

notice of the filing of the petition and the acceptance thereof by causing publication to be made once a week for four consecutive weeks in some newspaper published in each county in which any lands or property within the boundaries of the minor district shall be situate. Such notice need not contain the names of the owners of the lands and property, or descriptions of the tracts of land owned and property affected in the minor district, but it will be sufficient to describe the owners and lands as being all the owners of the lands and property embraced in the boundaries of the minor district petitioning; the notice shall also state the purpose of the petition by the minor district to the major district is to annex to the major district the minor district and that the petitioning minor district lands and property and owners will become a part of the major district which assumes all liabilities, and that the major district accepts the benefit assessments of the minor district as a basis of assessment of taxes thereafter, and in cases of overlaps of the districts, the combined benefits shall be added on each tract of land or property and the combined assessments of the minor and the major districts shall be the true benefit assessment for tax purposes hereafter; and if the petition is granted, the minor district shall become a part of the major district and the minor district shall cease to be as an organization. That any owner of land or other property against which benefits are assessed lying within the boundaries of the minor district petitioning to be annexed shall have the right to file objections in the office of the said circuit clerk within fifteen days but not after the last publication of notice which said date of filing objection shall be stated in said notice.

3. Objections so filed shall set out why petition should not be granted. Such objections shall be limited to a denial of the statements in the petition and should be heard and determined by the court as early and speedily as possible, at either a regular, adjourned or special term, and the court shall set such motions down for hearing at the earliest possible time, not later than fifteen days after the time for filing same expires, and hear same speedily. If the court finds the statements in the petition and in the agreement and acceptance to be true, after due hearing, the said court shall by its judgment and decree annex the minor district to the major district reciting the facts in its judgment consistent with sections [242.692](#) to [242.699](#).

4. Upon rendition of the decree the clerk of the court shall cause a certified copy of the judgment and decree of the court to be served upon the secretary or any other officer of the minor district. The board of supervisors and its officers of the minor district shall thereupon proceed to deliver to the secretary of the board of the major district all of its books, records and supplies it has on hand, and the treasurer of said minor district shall forthwith deliver to the treasurer of the major district all of the moneys and property in his hands and charged up to him, taking the receipt of the

secretary of the major district therefor, which shall terminate the existence of the minor district.

(L. 1961 p. 444 §§ 3 to 6)

8/28/1961



242.698. Appeal. — Any owner of lands or other property in the minor district shall have the right to appeal the finding or decree of the court annexing minor district to major district, said appeal to be prosecuted in the same manner as provided for appeals under the civil code.

(L. 1961 p. 444 § 7)

8/28/1961

242.699. Construction — applicability. — The provisions herein contained are declared to be remedial in character, shall be liberally construed by the courts promptly and shall apply to districts already organized, in process of reorganization or to be hereafter organized or reorganized by circuit courts of this state.

(L. 1961 p. 444 § 8)

8/28/1961

242.700. Drainage district may be formed on land containing mineral deposits. — The owners of a majority of the acreage in any contiguous body of lands or of lands having a common drainage, certified by the state geologist of this state to contain or probably contain valuable mineral deposits, situate in one or more counties of this state, may form a drainage district for the purpose of having such lands drained for mining purposes, and for that purpose they may make and sign articles of association and be incorporated and be and become a body corporate in all respects and in the same manner as is now provided for the organization, incorporation and government of associations for the drainage of swamps, etc., lands under sections [242.010](#) to [242.690](#), with all rights, powers, duties and obligations of drainage districts organized under said sections except as herein otherwise provided.

(RSMo 1939 § 12390)

8/28/1939



242.710. Reclamation of mineralized lands. — In order more effectively to promote the drainage and reclamation of mineralized lands now organized or which may

hereafter be organized hereunder, such districts shall have the power to purchase, construct, own or lease and operate a plant or plants for the pumping of water from the underground areas of such lands, and a custom concentrating plant or plants for crushing and cleaning ores and minerals; to prescribe, regulate and collect taxes or charges for the pumping of water and for the crushing and cleaning of such ores and minerals, and to acquire by lease, purchase, donation or condemnation, the necessary lands upon which to construct such pumping station or pumping stations, plant or plants, and rights-of-way and easements for the construction and maintenance of roads, railroads or other ways to and from such station or stations, plant or plants, including rights-of-way and easements for the flowage, impounding or disposal of water.

(RSMo 1939 § 12391)

8/28/1939

242.720. Survey and reclamation plan — how made — exceptions. — 1. The chief engineer appointed by the board of supervisors of any mine drainage district, as provided in section [242.220](#), shall make a survey of the lands, both surface and underground, within the district, and of all mineralized lands adjacent thereto that may or will be benefitted by such system of drainage, and report thereon in writing to the board of supervisors, with maps and profiles of such survey, showing the shafts, drifts, drill holes, underground excavations and underground watercourses, with plans for draining, dewatering and reclaiming such lands for mining purposes, together with designs and plans for the construction of a custom concentrating plant or plants and all necessary facilities in connection therewith, including also an estimate of the amount of ores and minerals available for mining from such lands upon completion and execution of such plans. Such report, or any modification thereof approved by the chief engineer shall be adopted by the board of supervisors as the plan for reclamation as provided in section [242.230](#).

2. On the filing and adoption of the plan for reclamation, the board of supervisors shall, by resolution, provide for the levy and collection of the taxes and charges hereinbefore and hereinafter provided for, including provisions for the increase thereof as provided for in section [242.740](#), and shall give notice thereof by causing such resolution to be published once a week for two consecutive weeks in some newspaper published in each county in which the said district or any part thereof may be located.

3. Any owner of land within the district or adjacent thereto that may or will be benefitted by such plan for reclamation may, within ten days following the last day of

publication of said notice, file with the secretary of the board of supervisors, exceptions to such tax levies or charges.

4. Thereupon the board of supervisors shall, within five days after the filing of such exceptions, hear and determine the same, and in case any such landowner is not satisfied with the determination of such exceptions by such board, he may file his exceptions in the form of a petition in the circuit court by which the district was organized, and such court shall hear and determine the same as provided in section [242.280](#).

5. The chief engineer shall keep a complete record of the drainage of said district and the lands affected thereby and of the operation of such concentrating plant or plants, and shall file a written report thereon from time to time as may be requested by the board of supervisors, but at least once each year.

(RSMo 1939 § 12392)

8/28/1939

242.730. Pumping tax — levy, collection and use — contracts with landowners. —

1. The board of supervisors shall, in the resolution herein provided for, levy and provide for the collection of a pumping tax, in the form of a royalty on the mineral concentrates produced from the lands affected by such plan for reclamation, not exceeding, however, two percent of the gross sale value of such mineral concentrates, and a tax or charge for the crushing and cleaning of ores and minerals by or through the concentrating plant or plants operated or to be operated by the district, such milling tax or charge shall be fixed by the board of supervisors at a stated rate per ton of such ores and minerals so crushed and cleaned and, when added to the proceeds of the aforesaid pumping tax, shall be sufficient to produce the sum or sums required to pay interest on the bonded indebtedness of the district at any time outstanding, to pay maturing bonds of the district according to the terms and tenor thereof, to pay the operating expenses of the district and to provide an adequate reserve fund for maintenance, depreciation and contingencies.

2. All funds received by the district for and on account of the tax levies or charges herein provided for shall be deposited by the treasurer of the district in some solvent bank or trust company and shall at all times be secured by such collateral or otherwise as the board of supervisors may direct, and shall be used for no other purpose than as hereinbefore and hereinafter authorized.

3. All taxes or charges herein provided for shall constitute a first and a paramount lien on the ores, minerals and concentrates mined and produced from the lands

affected by such plan for reclamation, and the board of supervisors of any such district may hold possession of the ores, minerals and concentrates so produced or crushed and cleaned by or through the concentrating plant or plants operated by the district until the taxes and charges herein provided for shall have been paid, or such board may sell such ores, minerals and concentrates on the open market and, after deducting the amount of such taxes or charges, remit the remainder to the person or persons entitled thereto.

4. To secure the continuous operation of mines within the district, to secure the continuous operation of such concentrating plant or plants to the capacity thereof and to secure the prompt payment of all taxes and charges herein provided for, such board of supervisors is authorized to enter into a contract or contracts with any owner or owners of lands, affected by such plan for reclamation, their lessees or any other persons interested therein; such contract or contracts to contain such provision or provisions, as the board of supervisors may find necessary or advisable to effectuate the purposes of sections [242.700 to 242.750](#), and to carry out the powers herein conferred on such board of supervisors.

(RSMo 1939 § 12393)

8/28/1939

242.740. Issuance and registration of bonds. — 1. The board of supervisors of any such mine drainage district may issue the bonds of such district as provided in section [242.480](#), except that in lieu of the basis of the issuance thereof as provided in section [242.450](#), the total amount of bonds so issued shall not exceed seventy-five percent of the income of such district from all sources for the number of years for which such bonds are to be outstanding, such income to be estimated by the board of supervisors upon the basis of the report of the chief engineer of the district provided for in section [242.720](#), and it shall be the duty of said board, in making the levy of the pumping tax or royalty and in prescribing the tax or charge for crushing and cleaning ores or minerals by such concentrating plant or plants, to take into account the maturing principal and accruing interest on all bonds of the district at any time outstanding, and to make ample provision for the payment thereof, and, to that end, it shall be the duty of the board of supervisors at any time, and from time to time, when it becomes apparent that such taxes or charges theretofore fixed will not produce the sums required for the payment of such bonds and the interest thereon and the operating and maintenance expenses of the district, to increase such taxes or charges so as to produce fully the sums required, as aforesaid; provided, however, that such pumping tax shall not exceed the limitation herein provided.

2. The board of supervisors, in order to secure the payment of such bonds and the interest thereon, shall have power and authority to pledge, mortgage or convey the property of such district, both real and personal, the proceeds to be derived from all such taxes or charges, after deducting therefrom the sum or sums required to pay the operating expenses of the district and to provide an adequate reserve fund for maintenance, depreciation and contingencies.

3. Before such bonds shall be negotiated, they shall be presented to the state auditor of Missouri for registration as provided in section 108.240 and the board of supervisors may sell such bonds as provided in section 242.480, or may sell the same to any corporation, commission or agency created or authorized by the Congress of the United States to purchase such bonds.

(RSMo 1939 § 12394)

8/28/1939

242.750. Credit for additional pumping operations. — In the event that the drainage operations conducted by any such drainage district shall not drain any tract of land therein to the depth of mining operations conducted on such tract, necessitating the operation by the owner of such tract or his agents or lessees or sublessees, of pumps additional to the pumps operated by such district, then the pumping tax or taxes levied against such tract shall be credited with the amount actually and necessarily spent in such additional pumping operations by such owners, his agents, lessees, or sublessees.

(RSMo 1939 § 12395)

8/28/1939

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