

FIRST REGULAR SESSION
SENATE COMMITTEE SUBSTITUTE FOR
SENATE BILL NO. 311
94TH GENERAL ASSEMBLY

Reported from the Committee on Economic Development, Tourism and Local Government, February 8, 2007, with recommendation that the Senate Committee Substitute do pass and be placed on the Consent Calendar.

1525S.02C

TERRY L. SPIELER, Secretary.

AN ACT

To repeal sections 238.202, 238.207, 238.208, 238.225, and 238.275, RSMo, and to enact in lieu thereof five new sections relating to transportation development districts.

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

Section A. Sections 238.202, 238.207, 238.208, 238.225, and 238.275, RSMo, are repealed and five new sections enacted in lieu thereof, to be known as sections 238.202, 238.207, 238.208, 238.225, and 238.275, to read as follows:

238.202. 1. As used in sections 238.200 to 238.275, the following terms mean:

- (1) "Board", the board of directors of a district;
- (2) "Commission", the Missouri highways and transportation commission;
- (3) "District", a transportation development district organized under sections 238.200 to 238.275;
- (4) "Local transportation authority", a county, city, town, village, county highway commission, special road district, interstate compact agency, or any local public authority or political subdivision having jurisdiction over any bridge, street, highway, dock, wharf, ferry, lake or river port, airport, railroad, light rail or other transit improvement or service;
- (5) "Project" includes any bridge, street, road, highway, access road, interchange, intersection, signing, signalization, parking lot, bus stop, station, garage, terminal, hangar, shelter, rest area, dock, wharf, lake or river port, airport, railroad, light rail, or other mass transit and any similar or related improvement or infrastructure.

EXPLANATION—Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

17 2. For the purposes of sections 11(c), 16 and 22 of article X of the
18 Constitution of Missouri, section 137.073, RSMo, and as used in sections 238.200
19 to 238.275, the following terms shall have the meanings given:

20 (1) "Approval of the required majority" or "direct voter approval", a simple
21 majority;

22 (2) "Qualified electors", "qualified voters" or "voters", [if] **within the**
23 **proposed or established district**, any persons [eligible to be registered voters
24 reside within the proposed district, such persons] **residing therein** who have
25 registered to vote pursuant to chapter 115, RSMo, [or if no persons eligible to be
26 registered voters reside within the proposed district,] **and** the owners of real
27 property [located within the proposed district], **who shall receive one vote**
28 **per acre, provided that any registered voter who also owns property**
29 **must elect whether to vote as an owner or a registered voter;**

30 (3) "Registered voters", persons qualified and registered to vote pursuant
31 to chapter 115, RSMo.

238.207. 1. Whenever the creation of a district is desired, not less than
2 fifty registered voters from each county partially or totally within the proposed
3 district may file a petition requesting the creation of a district. However, if no
4 persons eligible to be registered voters reside within the district, the owners of
5 record of all of the real property, except public streets, located within the
6 proposed district may file a petition requesting the creation of a district. The
7 petition shall be filed in the circuit court of any county partially or totally within
8 the proposed district.

9 2. Alternatively, the governing body of any local transportation authority
10 within any county in which a proposed project may be located may file a petition
11 in the circuit court of that county, requesting the creation of a district.

12 3. The proposed district area shall be contiguous and may contain all or
13 any portion of one or more municipalities and counties; provided:

14 (1) Property separated only by public streets, easements or rights-of-way
15 shall be considered contiguous;

16 (2) In the case of a district formed pursuant to a petition filed by the
17 owners of record of all of the real property located within the proposed district,
18 the proposed district area need not contain contiguous properties if:

19 (a) The petition provides that the only funding method for project costs
20 will be a sales tax;

21 (b) The court finds that all of the real property located within the

22 proposed district will benefit by the projects to be undertaken by the district; and

23 (c) Each parcel within the district is within five miles of every other
24 parcel; and

25 (3) In the case of a district created pursuant to subsection 5 of this
26 section, property separated only by public streets, easements, or rights-of-way or
27 connected by a single public street, easement, or right-of-way shall be considered
28 contiguous.

29 4. The petition shall set forth:

30 (1) The name, voting residence and county of residence of each individual
31 petitioner, or, if no persons eligible to be registered voters reside within the
32 proposed district, the name and address of each owner of record of real property
33 located within the proposed district, or shall recite that the petitioner is the
34 governing body of a local transportation authority acting in its official capacity;

35 (2) The name and address of each respondent. Respondents must include
36 the commission and each affected local transportation authority within the
37 proposed district, except a petitioning local transportation authority;

38 (3) A specific description of the proposed district boundaries including a
39 map illustrating such boundaries;

40 (4) A general description of each project proposed to be undertaken by
41 that district, including a description of the approximate location of each project;

42 (5) **The estimated project costs and the anticipated revenues to
43 be collected from the project;**

44 (6) The name of the proposed district;

45 [(6)] (7) The number of members of the board of directors of the proposed
46 district, which shall be not less than five or more than fifteen;

47 [(7)] (8) A statement that the terms of office of initial board members
48 shall be staggered in approximately equal numbers to expire in one, two or three
49 years;

50 [(8)] (9) If the petition was filed by registered voters or by a governing
51 body, a request that the question be submitted to the qualified voters within the
52 limits of the proposed district whether they will establish a transportation
53 development district to develop a specified project or projects;

54 [(9)] (10) A proposal for funding the district initially, pursuant to the
55 authority granted in sections 238.200 to 238.275, together with a request that the
56 funding proposal be submitted to the qualified voters [residing] within the limits
57 of the proposed district; provided, however, the funding method of special

58 assessments may also be approved as provided in subsection 1 of section 238.230;
59 and

60 [(10)] **(11)** A statement that the proposed district shall not be an undue
61 burden on any owner of property within the district and is not unjust or
62 unreasonable.

63 5. (1) As an alternative to the methods described in subsections 1 and 2
64 of this section, if two or more local transportation authorities have adopted
65 resolutions calling for the joint establishment of a district, the governing body of
66 any one such local transportation authority may file a petition in the circuit court
67 of any county in which the proposed project is located requesting the creation of
68 a district.

69 (2) The proposed district area shall be contiguous and may contain all or
70 any portion of one or more municipalities and counties. Property separated only
71 by public streets, easements, or rights-of-way or connected by a single public
72 street, easement, or right-of-way shall be considered contiguous.

73 (3) The petition shall set forth:

74 (a) That the petitioner is the governing body of a local transportation
75 authority acting in its official capacity;

76 (b) The name of each local transportation authority within the proposed
77 district. The resolution of the governing body of each local transportation
78 authority calling for the joint establishment of the district shall be attached to
79 the petition;

80 (c) The name and address of each respondent. Respondents must include
81 the commission and each affected local transportation authority within the
82 proposed district, except a petitioning local transportation authority;

83 (d) A specific description of the proposed district boundaries including a
84 map illustrating such boundaries;

85 (e) A general description of each project proposed to be undertaken by the
86 district, including a description of the approximate location of each project;

87 (f) The name of the proposed district;

88 (g) The number of members of the board of directors of the proposed
89 district;

90 (h) A request that the question be submitted to the qualified voters within
91 the limits of the proposed district whether they will establish a transportation
92 development district to develop the projects described in the petition;

93 (i) A proposal for funding the district initially, pursuant to the authority

94 granted in sections 238.200 to 238.275, together with a request that the
95 imposition of the funding proposal be submitted to the qualified voters residing
96 within the limits of the proposed district; provided, however, the funding method
97 of special assessments may also be approved as provided in subsection 1 of
98 section 238.230; and

99 (j) A statement that the proposed district shall not be an undue burden
100 on any owner of property within the district and is not unjust or unreasonable.

238.208. 1. The owners of property adjacent to a transportation district
2 formed under the Missouri transportation development district act may petition
3 the court by unanimous petition to add their property to the district. If the
4 property owners within the transportation development district unanimously
5 approve of the addition of property, the adjacent properties in the petition shall
6 be added to the district. Any property added under this section shall be subject
7 to all projects, taxes, and special assessments in effect as of the date of the court
8 order adding the property to the district. The owners of the added property shall
9 be allowed to vote at the next election scheduled for the district to fill vacancies
10 on the board and on any other question submitted to them by the board under
11 this chapter. The owners of property added under this section shall have one vote
12 per acre in the same manner as provided in subdivision (2) of subsection 2 of
13 section 238.220.

14 **2. The owners of all of the property located in a transportation**
15 **development district formed under this chapter may, by unanimous**
16 **petition filed with the board of directors of the district, remove any**
17 **property from the district, so long as such removal will not materially**
18 **affect any obligations of the district.**

238.225. 1. Before construction or funding of any project, the district
2 shall submit the proposed project, [together with the proposed plans and
3 specifications,] to the commission for its prior approval [of the project]. If the
4 commission by minute finds that the project will improve or is a necessary or
5 desirable extension of the state highways and transportation system, the
6 commission may **preliminarily** approve the project subject to the district
7 **providing plans and specifications for the proposed project and** making
8 any revisions in the plans and specifications required by the commission and the
9 district and commission entering into a mutually satisfactory agreement
10 regarding development and future maintenance of the project. **After such**
11 **preliminary approval, the district may impose and collect such taxes**

12 **and assessments as may be included in the commission's preliminary**
13 **approval.** After the commission approves the final construction plans and
14 specifications, the district shall obtain prior commission approval of any
15 modification of such plans or specifications.

16 2. If the proposed project is not intended to be merged into the state
17 highways and transportation system under the commission's jurisdiction, the
18 district shall also submit the proposed project and proposed plans and
19 specifications to the local transportation authority that will become the owner of
20 the project for its prior approval.

21 3. In those instances where a local transportation authority is required
22 to approve a project and the commission determines that it has no direct interest
23 in that project, the commission may decline to consider the project. Approval of
24 the project shall then vest exclusively with the local transportation authority
25 subject to the district making any revisions in the plans and specifications
26 required by the local transportation authority and the district and the local
27 transportation authority entering into a mutually satisfactory agreement
28 regarding development and future maintenance of the project. After the local
29 transportation authority approves the final construction plans and specifications,
30 the district shall obtain prior approval of the local transportation authority before
31 modifying such plans or specifications.

238.275. 1. Within six months after development and initial maintenance
2 costs of its completed project have been paid, the district shall pursuant to
3 contract transfer ownership and control of the project to the commission or a local
4 transportation authority which shall be responsible for all future maintenance
5 costs pursuant to contract. **Such transfer may be made sooner with the**
6 **consent of the recipient.**

7 2. At such time as a district has completed its project and has transferred
8 ownership of the project to the commission or other local transportation authority
9 for maintenance, or at such time as the board determines that it is unable to
10 complete its project due to lack of funding or for any other reason, the board shall
11 submit for a vote in an election held throughout the district the question of
12 whether the district should be abolished. The question shall be submitted in
13 substantially the following form:

14 Shall the Transportation Development District be abolished?

15 3. The district board shall not propose the question to abolish the district
16 while there are outstanding claims or causes of action pending against the

17 district, while the district liabilities exceed its assets, or while the district is
18 insolvent, in receivership or under the jurisdiction of the bankruptcy court. Prior
19 to submitting the question to abolish the district to a vote, the state auditor shall
20 audit the district to determine the financial status of the district, and whether
21 the district may be abolished pursuant to law.

22 4. While the district still exists, it shall continue to accrue all revenues
23 to which it is entitled at law.

24 5. Upon receipt of certification by the appropriate election authorities that
25 the majority of those voting within the district have voted to abolish the district,
26 and if the state auditor has determined that the district's financial condition is
27 such that it may be abolished pursuant to law, then the board shall:

28 (1) Sell any remaining district real or personal property it wishes, and
29 then transfer the proceeds and any other real or personal property owned by the
30 district, including revenues due and owing the district, to the commission or any
31 appropriate local transportation authority assuming maintenance and control of
32 the project, for its further use and disposition;

33 (2) Terminate the employment of any remaining district employees, and
34 otherwise conclude its affairs;

35 (3) At a public meeting of the district, declare by a majority vote that the
36 district has been abolished effective that date; and

37 (4) Cause copies of that resolution under seal to be filed with the
38 secretary of state, the director of revenue, the commission, and with each local
39 transportation authority affected by the district. Upon the completion of the final
40 act specified in this subsection, the legal existence of the district shall cease.

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