

FIRST REGULAR SESSION

[P E R F E C T E D]

SENATE BILL NO. 386

95TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR LAGER.

Read 1st time February 17, 2009, and ordered printed.

Read 2nd time February 19, 2009, and referred to the Committee on Jobs, Economic Development and Local Government.

Reported from the Committee March 11, 2009, with recommendation that the bill do pass and be placed on the Consent Calendar.

Taken up March 30, 2009. Read 3rd time and placed upon its final passage; bill passed.

TERRY L. SPIELER, Secretary.

1531S.01P

AN ACT

To repeal section 67.2000, RSMo, and to enact in lieu thereof one new section relating to the creation of exhibition and recreational facility districts.

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

Section A. Section 67.2000, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 67.2000, to read as follows:

67.2000. 1. This section shall be known as the "Exhibition Center and Recreational Facility District Act".

2. Whenever not less than fifty owners of real property located within any county of the first classification with more than seventy-one thousand three hundred but less than seventy-one thousand four hundred inhabitants, or any county of the first classification with more than one hundred ninety-eight thousand but less than one hundred ninety-nine thousand two hundred inhabitants, or any county of the first classification with more than eighty-five thousand nine hundred but less than eighty-six thousand inhabitants, or any county of the second classification with more than fifty-two thousand six hundred but less than fifty-two thousand seven hundred inhabitants, or any county of the first classification with more than one hundred four thousand six hundred but less than one hundred four thousand seven hundred inhabitants, or any county of the third classification without a township form of government and with more than seventeen thousand nine hundred but less than eighteen thousand inhabitants, or any county of the first classification with more than thirty-seven thousand but less than thirty-seven thousand one hundred inhabitants, or any county of the third classification without a township form of government and with

19 more than twenty-three thousand five hundred but less than twenty-three
20 thousand six hundred inhabitants, or any county of the third classification
21 without a township form of government and with more than nineteen thousand
22 three hundred but less than nineteen thousand four hundred inhabitants, or any
23 county of the first classification with more than two hundred forty thousand three
24 hundred but less than two hundred forty thousand four hundred inhabitants, **or**
25 **any county of the third classification with a township form of**
26 **government and with more than eight thousand nine hundred but fewer**
27 **than nine thousand inhabitants, or any county of the third**
28 **classification without a township form of government and with more**
29 **than eighteen thousand nine hundred but fewer than nineteen**
30 **thousand inhabitants, or any county of the third classification with a**
31 **township form of government and with more than eight thousand but**
32 **fewer than eight thousand one hundred inhabitants, or any county of**
33 **the third classification with a township form of government and with**
34 **more than eleven thousand five hundred but fewer than eleven**
35 **thousand six hundred inhabitants,** desire to create an exhibition center and
36 recreational facility district, the property owners shall file a petition with the
37 governing body of each county located within the boundaries of the proposed
38 district requesting the creation of the district. The district boundaries may
39 include all or part of the counties described in this section. The petition shall
40 contain the following information:

41 (1) The name and residence of each petitioner and the location of the real
42 property owned by the petitioner;

43 (2) A specific description of the proposed district boundaries, including a
44 map illustrating the boundaries; and

45 (3) The name of the proposed district.

46 3. Upon the filing of a petition pursuant to this section, the governing
47 body of any county described in this section may, by resolution, approve the
48 creation of a district. Any resolution to establish such a district shall be adopted
49 by the governing body of each county located within the proposed district, and
50 shall contain the following information:

51 (1) A description of the boundaries of the proposed district;

52 (2) The time and place of a hearing to be held to consider establishment
53 of the proposed district;

54 (3) The proposed sales tax rate to be voted on within the proposed district;

55 and

56 (4) The proposed uses for the revenue generated by the new sales tax.

57 4. Whenever a hearing is held as provided by this section, the governing
58 body of each county located within the proposed district shall:

59 (1) Publish notice of the hearing on two separate occasions in at least one
60 newspaper of general circulation in each county located within the proposed
61 district, with the first publication to occur not more than thirty days before the
62 hearing, and the second publication to occur not more than fifteen days or less
63 than ten days before the hearing;

64 (2) Hear all protests and receive evidence for or against the establishment
65 of the proposed district; and

66 (3) Rule upon all protests, which determinations shall be final.

67 5. Following the hearing, if the governing body of each county located
68 within the proposed district decides to establish the proposed district, it shall
69 adopt an order to that effect; if the governing body of any county located within
70 the proposed district decides to not establish the proposed district, the boundaries
71 of the proposed district shall not include that county. The order shall contain the
72 following:

73 (1) The description of the boundaries of the district;

74 (2) A statement that an exhibition center and recreational facility district
75 has been established;

76 (3) The name of the district;

77 (4) The uses for any revenue generated by a sales tax imposed pursuant
78 to this section; and

79 (5) A declaration that the district is a political subdivision of the state.

80 6. A district established pursuant to this section may, at a general,
81 primary, or special election, submit to the qualified voters within the district
82 boundaries a sales tax of one-fourth of one percent, for a period not to exceed
83 twenty-five years, on all retail sales within the district, which are subject to
84 taxation pursuant to sections 144.010 to 144.525, RSMo, to fund the acquisition,
85 construction, maintenance, operation, improvement, and promotion of an
86 exhibition center and recreational facilities. The ballot of submission shall be in
87 substantially the following form:

88 Shall the (name of district) impose
89 a sales tax of one-fourth of one percent to fund the acquisition, construction,
90 maintenance, operation, improvement, and promotion of an exhibition center and

91 recreational facilities, for a period of (insert number of years)?

92 YES NO

93 If you are in favor of the question, place an "X" in the box opposite "YES". If you
94 are opposed to the question, place an "X" in the box opposite "NO".

95 If a majority of the votes cast in the portion of any county that is part of the
96 proposed district favor the proposal, then the sales tax shall become effective in
97 that portion of the county that is part of the proposed district on the first day of
98 the first calendar quarter immediately following the election. If a majority of the
99 votes cast in the portion of a county that is a part of the proposed district oppose
100 the proposal, then that portion of such county shall not impose the sales tax
101 authorized in this section until after the county governing body has submitted
102 another such sales tax proposal and the proposal is approved by a majority of the
103 qualified voters voting thereon.

104 However, if a sales tax proposal is not approved, the governing body of the county
105 shall not resubmit a proposal to the voters pursuant to this section sooner than
106 twelve months from the date of the last proposal submitted pursuant to this
107 section. If the qualified voters in two or more counties that have contiguous
108 districts approve the sales tax proposal, the districts shall combine to become one
109 district.

110 7. There is hereby created a board of trustees to administer any district
111 created and the expenditure of revenue generated pursuant to this section
112 consisting of four individuals to represent each county approving the district, as
113 provided in this subsection. The governing body of each county located within the
114 district, upon approval of that county's sales tax proposal, shall appoint four
115 members to the board of trustees; at least one shall be an owner of a nonlodging
116 business located within the taxing district, or their designee, at least one shall
117 be an owner of a lodging facility located within the district, or their designee, and
118 all members shall reside in the district except that one nonlodging business
119 owner, or their designee, and one lodging facility owner, or their designee, may
120 reside outside the district. Each trustee shall be at least twenty-five years of age
121 and a resident of this state. Of the initial trustees appointed from each county,
122 two shall hold office for two years, and two shall hold office for four years.

123 Trustees appointed after expiration of the initial terms shall be appointed to a
124 four-year term by the governing body of the county the trustee represents, with
125 the initially appointed trustee to remain in office until a successor is appointed,
126 and shall take office upon being appointed. Each trustee may be

127 reappointed. Vacancies shall be filled in the same manner in which the trustee
128 vacating the office was originally appointed. The trustees shall not receive
129 compensation for their services, but may be reimbursed for their actual and
130 necessary expenses. The board shall elect a chair and other officers necessary for
131 its membership. Trustees may be removed if:

132 (1) By a two-thirds vote, the board moves for the member's removal and
133 submits such motion to the governing body of the county from which the trustee
134 was appointed; and

135 (2) The governing body of the county from which the trustee was
136 appointed, by a majority vote, adopts the motion for removal.

137 8. The board of trustees shall have the following powers, authority, and
138 privileges:

139 (1) To have and use a corporate seal;

140 (2) To sue and be sued, and be a party to suits, actions, and proceedings;

141 (3) To enter into contracts, franchises, and agreements with any person
142 or entity, public or private, affecting the affairs of the district, including contracts
143 with any municipality, district, or state, or the United States, and any of their
144 agencies, political subdivisions, or instrumentalities, for the funding, including
145 without limitation interest rate exchange or swap agreements, planning,
146 development, construction, acquisition, maintenance, or operation of a single
147 exhibition center and recreational facilities or to assist in such
148 activity. "Recreational facilities" means locations explicitly designated for public
149 use where the primary use of the facility involves participation in hobbies or
150 athletic activities;

151 (4) To borrow money and incur indebtedness and evidence the same by
152 certificates, notes, or debentures, to issue bonds and use any one or more lawful
153 funding methods the district may obtain for its purposes at such rates of interest
154 as the district may determine. Any bonds, notes, and other obligations issued or
155 delivered by the district may be secured by mortgage, pledge, or deed of trust of
156 any or all of the property and income of the district. Every issue of such bonds,
157 notes, or other obligations shall be payable out of property and revenues of the
158 district and may be further secured by other property of the district, which may
159 be pledged, assigned, mortgaged, or a security interest granted for such payment,
160 without preference or priority of the first bonds issued, subject to any agreement
161 with the holders of any other bonds pledging any specified property or
162 revenues. Such bonds, notes, or other obligations shall be authorized by

163 resolution of the district board, and shall bear such date or dates, and shall
164 mature at such time or times, but not in excess of thirty years, as the resolution
165 shall specify. Such bonds, notes, or other obligations shall be in such
166 denomination, bear interest at such rate or rates, be in such form, either coupon
167 or registered, be issued as current interest bonds, compound interest bonds,
168 variable rate bonds, convertible bonds, or zero coupon bonds, be issued in such
169 manner, be payable in such place or places, and be subject to redemption as such
170 resolution may provide, notwithstanding section 108.170, RSMo. The bonds,
171 notes, or other obligations may be sold at either public or private sale, at such
172 interest rates, and at such price or prices as the district shall determine;

173 (5) To acquire, transfer, donate, lease, exchange, mortgage, and encumber
174 real and personal property in furtherance of district purposes;

175 (6) To refund any bonds, notes, or other obligations of the district without
176 an election. The terms and conditions of refunding obligations shall be
177 substantially the same as those of the original issue, and the board shall provide
178 for the payment of interest at not to exceed the legal rate, and the principal of
179 such refunding obligations in the same manner as is provided for the payment of
180 interest and principal of obligations refunded;

181 (7) To have the management, control, and supervision of all the business
182 and affairs of the district, and the construction, installation, operation, and
183 maintenance of district improvements therein; to collect rentals, fees, and other
184 charges in connection with its services or for the use of any of its facilities;

185 (8) To hire and retain agents, employees, engineers, and attorneys;

186 (9) To receive and accept by bequest, gift, or donation any kind of
187 property;

188 (10) To adopt and amend bylaws and any other rules and regulations not
189 in conflict with the constitution and laws of this state, necessary for the carrying
190 on of the business, objects, and affairs of the board and of the district; and

191 (11) To have and exercise all rights and powers necessary or incidental
192 to or implied from the specific powers granted by this section.

193 9. There is hereby created the "Exhibition Center and Recreational
194 Facility District Sales Tax Trust Fund", which shall consist of all sales tax
195 revenue collected pursuant to this section. The director of revenue shall be
196 custodian of the trust fund, and moneys in the trust fund shall be used solely for
197 the purposes authorized in this section. Moneys in the trust fund shall be
198 considered nonstate funds pursuant to section 15, article IV, Constitution of

199 Missouri. The director of revenue shall invest moneys in the trust fund in the
 200 same manner as other funds are invested. Any interest and moneys earned on
 201 such investments shall be credited to the trust fund. All sales taxes collected by
 202 the director of revenue pursuant to this section on behalf of the district, less one
 203 percent for the cost of collection which shall be deposited in the state's general
 204 revenue fund after payment of premiums for surety bonds as provided in section
 205 32.087, RSMo, shall be deposited in the trust fund. The director of revenue shall
 206 keep accurate records of the amount of moneys in the trust fund which was
 207 collected in the district imposing a sales tax pursuant to this section, and the
 208 records shall be open to the inspection of the officers of each district and the
 209 general public. Not later than the tenth day of each month, the director of
 210 revenue shall distribute all moneys deposited in the trust fund during the
 211 preceding month to the district. The director of revenue may authorize refunds
 212 from the amounts in the trust fund and credited to the district for erroneous
 213 payments and overpayments made, and may redeem dishonored checks and drafts
 214 deposited to the credit of the district.

215 10. The sales tax authorized by this section is in addition to all other
 216 sales taxes allowed by law. Except as modified in this section, all provisions of
 217 sections 32.085 and 32.087, RSMo, apply to the sales tax imposed pursuant to
 218 this section.

219 11. Any sales tax imposed pursuant to this section shall not extend past
 220 the initial term approved by the voters unless an extension of the sales tax is
 221 submitted to and approved by the qualified voters in each county in the manner
 222 provided in this section. Each extension of the sales tax shall be for a period not
 223 to exceed twenty years. The ballot of submission for the extension shall be in
 224 substantially the following form:

225 Shall the (name of district) extend the sales tax
 226 of one-fourth of one percent for a period of (insert number of years) years
 227 to fund the acquisition, construction, maintenance, operation, improvement, and
 228 promotion of an exhibition center and recreational facilities?

229 YES NO

230 If you are in favor of the question, place an "X" in the box opposite "YES". If you
 231 are opposed to the question, place an "X" in the box opposite "NO".

232 If a majority of the votes cast favor the extension, then the sales tax shall remain
 233 in effect at the rate and for the time period approved by the voters. If a sales tax
 234 extension is not approved, the district may submit another sales tax proposal as

235 authorized in this section, but the district shall not submit such a proposal to the
236 voters sooner than twelve months from the date of the last extension submitted.

237 12. Once the sales tax authorized by this section is abolished or
238 terminated by any means, all funds remaining in the trust fund shall be used
239 solely for the purposes approved in the ballot question authorizing the sales
240 tax. The sales tax shall not be abolished or terminated while the district has any
241 financing or other obligations outstanding; provided that any new financing, debt,
242 or other obligation or any restructuring or refinancing of an existing debt or
243 obligation incurred more than ten years after voter approval of the sales tax
244 provided in this section or more than ten years after any voter-approved
245 extension thereof shall not cause the extension of the sales tax provided in this
246 section or cause the final maturity of any financing or other obligations
247 outstanding to be extended. Any funds in the trust fund which are not needed
248 for current expenditures may be invested by the district in the securities
249 described in subdivisions (1) to (12) of subsection 1 of section 30.270, RSMo, or
250 repurchase agreements secured by such securities. If the district abolishes the
251 sales tax, the district shall notify the director of revenue of the action at least
252 ninety days before the effective date of the repeal, and the director of revenue
253 may order retention in the trust fund, for a period of one year, of two percent of
254 the amount collected after receipt of such notice to cover possible refunds or
255 overpayment of the sales tax and to redeem dishonored checks and drafts
256 deposited to the credit of such accounts. After one year has elapsed after the
257 effective date of abolition of the sales tax in the district, the director of revenue
258 shall remit the balance in the account to the district and close the account of the
259 district. The director of revenue shall notify the district of each instance of any
260 amount refunded or any check redeemed from receipts due the district.

261 13. In the event that the district is dissolved or terminated by any means,
262 the governing bodies of the counties in the district shall appoint a person to act
263 as trustee for the district so dissolved or terminated. Before beginning the
264 discharge of duties, the trustee shall take and subscribe an oath to faithfully
265 discharge the duties of the office, and shall give bond with sufficient security,
266 approved by the governing bodies of the counties, to the use of the dissolved or
267 terminated district, for the faithful discharge of duties. The trustee shall have
268 and exercise all powers necessary to liquidate the district, and upon satisfaction
269 of all remaining obligations of the district, shall pay over to the county treasurer
270 of each county in the district and take receipt for all remaining moneys in

271 amounts based on the ratio the levy of each county bears to the total levy for the
272 district in the previous three years or since the establishment of the district,
273 whichever time period is shorter. Upon payment to the county treasurers, the
274 trustee shall deliver to the clerk of the governing body of any county in the
275 district all books, papers, records, and deeds belonging to the dissolved district.

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Bill

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