

SECOND REGULAR SESSION

# SENATE BILL NO. 827

90TH GENERAL ASSEMBLY

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INTRODUCED BY SENATORS SCOTT, SCHNEIDER, YECKEL, CLAY AND SIMS.

Read 1st time January 13, 2000, and 1,000 copies ordered printed.

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TERRY L. SPIELER, Secretary.

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## AN ACT

To amend chapter 66, RSMo, by adding thereto fourteen new sections relating to the downtown revitalization act, with an emergency clause.

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

Section A. Chapter 66, RSMo, is amended by adding thereto fourteen new sections, to be known as sections 66.750, 66.753, 66.756, 66.759, 66.762, 66.765, 66.768, 66.771, 66.774, 66.777, 66.780, 66.783, 66.786 and 66.789, to read as follows:

**66.750. Sections 66.750 to 66.789 shall be known as the "Downtown Revitalization Act".**

**66.753. As used in sections 66.750 to 66.789, the following terms mean:**

- (1) "Board", the board of trustees of a district;**
- (2) "County", any county or any city not located within a county;**
- (3) "District", a downtown revitalization district organized pursuant to sections 66.750 to 66.789;**

- (4) "Downtown", the area comprising the primary business district, as identified by the board, of the city with the largest population wholly within the downtown revitalization district, which district shall not contain more than five percent of the total geographic area of such city;**

- (5) "Executive", any mayor, county executive, presiding commissioner, or other chief executive of a county.**

**66.756. There is hereby created a "Downtown Revitalization District" comprising any city not located within a county and any county of the first classification with a charter form of government containing a population of more than nine hundred thousand. Such downtown revitalization district is created for the purpose of promoting, encouraging, and fostering the economic health and vitality of the original**

**downtown region within its boundaries. Any expenditures shall be limited to public purposes as designated by the board. Such district shall be a body corporate and politic and a political subdivision of this state.**

**66.759. 1. Management of the district shall be vested in a board of trustees. The executive of the county from which a board member received his or her appointment may remove any such board member for breach of such member's fiduciary duty.**

**2. No board member shall hold an elected public office. Board members must be citizens of the United States and they must reside within the county within the district from which they were appointed. No board member shall receive compensation for performance of duties as a board member. No board member or immediate family member of any board member shall engage in any act prohibited by section 105.458, RSMo.**

**3. All vacancies on the board shall be filled in the same manner for the duration of the term being filled. On the expiration of such initial terms of appointment and on the expiration of any subsequent term, the resulting vacancies shall be filled by the respective appointing officers as identified in subsections 6 and 7 of this section. After the initial board members' terms, board members shall be appointed to and serve for terms of four years and until their successors are named and such successors have commenced their respective terms as board members. Board members shall be eligible for re-appointment.**

**4. Promptly after their appointment, the initial board members shall hold an organizational meeting at which they shall elect a chairman and such other officers from among their number as they may deem necessary and make and adopt such bylaws, rules and regulations for their guidance and for the execution of the purposes of the district as may be expedient and not inconsistent with sections 66.750 to 66.789.**

**5. The board shall have exclusive control of the expenditures of all money collected to the credit of the downtown revitalization trust fund created pursuant to section 66.771 and shall have exclusive authority to expend such moneys or to release such moneys for expenditure by the management entity described in subsection 2 of section 66.765. All moneys received for such purposes shall be deposited in the treasury of the county which is wholly within the district having the largest population to the credit of the downtown revitalization trust fund and shall be kept separate and apart from the other moneys of such county. The board shall keep accurate records of all its proceedings and actions and shall compile and publish reports of information relating to the district and to the board's functions and proceedings all as provided under chapter 610, RSMo.**

**6. The executive of the county which is wholly within the district having the largest population shall appoint six members of the initial board, two for a one year**

term, two for a two year term and two for a three year term. The county executive shall allocate his or her appointments to the board in a manner which ensures that four such appointees shall reside in cities within such county and two appointees shall reside in unincorporated areas of such county. Furthermore, the county executive of the county wholly within the district having the largest population shall appoint no more than three board members who are members of the same political party and no two board members shall reside in the same county council district at the time of appointment.

7. There shall be three board members appointed from any city not within a county which is a part of the district. One such board member shall be appointed by the mayor of such city and shall serve for an initial term of three years. One such board member shall be appointed by the president of the board of aldermen of such city and shall serve for an initial term of one year. One such board member shall be appointed by the comptroller of such city and shall serve for an initial term of two years.

**66.762. 1. The board shall possess and exercise all of the district's legislative and executive powers.**

**2. A simple majority of the board shall constitute a quorum. If a quorum exists, a majority of those voting shall have the authority to act in the name of the board and approve any board resolution.**

**3. Each board member shall devote such time to the duties of the office as the faithful discharge thereof may require and may be reimbursed for his or her actual expenditures in the performance of his or her duties on behalf of the district.**

**66.765. 1. The board shall not hire any person to be an employee of the district.**

**2. The board shall enter into an administration agreement for operational and management services with a Missouri non-profit corporation organized to promote the interest of downtown and governed by a board which represents both public and private interests and which has been incorporated for less than one year on August 28, 2000.**

**3. The board may engage accountants, attorneys and other professional advisors as it deems necessary.**

**66.768. 1. A downtown revitalization district may, by a majority vote of its board of trustees, impose a sales tax for district purposes not to exceed four-tenths of one cent on all retail sales within the district subject to taxation under the provision of sections 144.010 to 144.525, RSMo, except that no such tax shall become effective unless the board of trustees of the district submits to the voters of the district, at a municipal or state general, primary or special election, a proposal to authorize the tax. The district's**

authority to impose any tax shall expire on the date which is seven years after the first day on which the tax is collected, unless the district resubmits a proposal to authorize the tax to the voters.

2. If a majority of the votes cast on the proposal by the qualified voters voting thereon in all counties which are wholly contained within the district is in favor of the proposal, then the tax shall become effective. If a majority of the votes cast by the qualified voters of any county voting are opposed to the proposal, then the board of trustees shall have no power to impose the tax unless and until the board of trustees of the district submits another proposal to authorize the tax to the voters of such county and such a proposal is approved by a majority of the qualified voters voting thereon. If a majority of the votes cast on the proposal by the qualified voters in a county are in favor of the proposal, then the measure shall be deemed approved in that county. The sales tax provided for in this section shall not be implemented until it is approved by a majority of voters in all counties voting thereon. In the event that the sales tax is approved in one or more, but not all of the counties, voting thereon at a single election, the board may resubmit the measure to the voters of the county in which the measure failed to receive majority support at any subsequent qualifying election. If at any subsequent qualifying election the voters of the county which failed to approve the measure previously approve the measure by a majority vote the measure will be enacted, notwithstanding any delay between the approval in the first county and the approval in another county.

3. The sales tax authorized by this section shall become effective on the first day of the second calendar quarter following approval of the tax by the qualified voters of all counties voting thereon.

4. In each downtown revitalization district in which a sales tax has been imposed in the manner provided by this section, every retailer shall add the tax imposed by the downtown revitalization district pursuant to this section to the retailer's sale price, and when so added such tax shall constitute a part of the price, shall be a debt of the purchaser to the retailer until paid, and shall be recoverable at law in the same manner as the purchase price.

5. In order to permit sellers required to collect and report the sales tax authorized by this section to collect the amount required to be reported and remitted, but not to change the requirements of reporting or remitting tax or to serve as a levy of the tax, and in order to avoid fractions of pennies, the downtown revitalization district may establish appropriate brackets which shall be used in the district imposing a tax pursuant to this section in lieu of those brackets provided in section 144.285, RSMo.

6. The sales tax may be imposed at the approved rate on the receipts from the

**sale at retail of all tangible personal property or taxable services at retail within the downtown revitalization district adopting such tax, if such property and services are subject to taxation by the state of Missouri pursuant to the provisions of sections 144.010 to 144.525, RSMo.**

**7. The district may enter into an agreement with the director of revenue of the state of Missouri for the purpose of collecting the tax authorized by this section. In the event the district enters into an agreement with the director of revenue of the state of Missouri for the collection of the tax authorized in this section, the director of revenue shall perform all functions incident to the administration, collection, enforcement and operation of such tax, and the director of revenue shall collect the additional tax authorized by this section. The tax authorized by this section shall be collected and reported upon such forms and under such administrative rules and regulations as may be prescribed by the director of revenue, and the director of revenue shall retain an amount to exceed one percent for cost of collection.**

**8. All applicable provisions contained in sections 144.010 to 144.525, RSMo, governing the state sales and use tax, sections 32.085 and 32.087, RSMo, and section 32.057, RSMo, the uniform confidentiality provision, shall apply to the collection of the tax imposed by this section, except as modified in this section.**

**9. All exemptions granted to agencies of government, organizations, persons and to the sale of certain articles and items of tangible personal property and taxable services pursuant to the provisions of sections 144.010 to 144.525, RSMo, are hereby made applicable to the imposition and collection of the tax imposed by this section.**

**10. The same sales tax permit, exemption certificate and retail certificate required by sections 144.010 to 144.525, RSMo, for the administration and collection of the state sales tax shall satisfy the requirements of this section, and no additional permit or exemption certificate or retail certificate shall be required; except that the downtown revitalization district may prescribe a form of exemption certificate for an exemption from the tax imposed by this section.**

**11. The penalties provided in section 32.057, RSMo, and sections 144.010 to 144.525, RSMo, for violation of those sections are hereby made applicable to violations of this section.**

**12. For the purpose of a sales tax imposed by a resolution pursuant to this section all retail sales except retail sales of motor vehicles shall be deemed to be consummated at the place of business of the retailer unless the tangible personal property sold is delivered by the retailer or the retailer's agent to an out-of-state destination or to a common carrier for delivery to an out-of-state destination. In the event a retailer has more than one place of business in this state which participates in the sale, the sale shall be deemed to be consummated at the place of business of the**

retailer where the initial order for the tangible personal property is taken, even though the order shall be forwarded elsewhere for acceptance, approval of credit, shipment or billing. A sale by a retailer's employee shall be deemed to be consummated at the place of business from which the employee works.

13. All sales taxes collected by or on behalf of the downtown revitalization district shall be deposited by the downtown revitalization district into the downtown revitalization trust fund to be expended for the purposes authorized in sections 66.750 to 66.789. The downtown revitalization district shall keep accurate records of the amount of money which was collected pursuant to this section, and the records shall be open to inspection by the officers and trustees of the downtown revitalization district and the Missouri department of revenue. Tax returns filed by businesses within the district shall otherwise be considered as confidential in the same manner as sales tax returns filed with the Missouri department of revenue.

14. No downtown revitalization district imposing a sales tax pursuant to this section may repeal or amend such sales tax unless and until such sales tax has been in effect for a period of seven years and such repeal or amendment shall not impair the district's ability to repay any liabilities which it has incurred, money which it has borrowed or revenue bonds, notes or other obligations which it has issued or which have been issued to finance any project or projects.

66.771. All moneys received by the district in payment of the sales tax authorized under section 66.768 shall be deposited in the treasury of the county wholly within the district having the largest population and credited to the "Downtown Revitalization Trust Fund" which is hereby created with the treasurer of such county as custodian.

66.774. In addition to all other powers granted by sections 66.750 to 66.789 the district shall have the following general powers:

- (1) To sue and be sued in its own name, and to receive service of process, which shall be served upon the district secretary;
- (2) To purchase any personal property necessary or convenient for its activities;
- (3) To collect and disburse funds for its activities; and
- (4) To exercise such other implied powers necessary or convenient for the district to accomplish its purposes which are not inconsistent with its express powers.

66.777. 1. The district may contract and incur obligations appropriate to accomplish its purposes.

2. The district may enter into any lease or lease-purchase agreement for or with respect to any real or personal property necessary or convenient for its purposes.

3. The district shall enter into a management agreement with a Missouri not for profit corporation organized to promote the interest of downtown and governed by a board which represents both public and private interests which has been incorporated

for less than one year as of August 28, 2000 to provide management and administrative services to the district and to carry out any other authorized purposes or functions of the district.

4. The district may borrow money for its purposes at such rates of interest as the district may determine.

5. The district may issue bonds, notes and other obligations, and may secure any of such obligations by mortgage, pledge, assignment, security agreement or deed of trust of any or all of the property and income of the district, subject to the restrictions provided in sections 66.750 to 66.789. The district shall also have the power and authority to assign revenues, property or other securities or otherwise to secure financing on the issuance of bonds through another political subdivision or an agency of the state.

6. Any decisions with regard to projects funded by the district shall be made following a recommendation by the management entity with which the district contracts. Project recommendations shall be consistent with the procurement policies in effect in the city in which the downtown is located.

7. The district may receive any and all donations, and grants of money, equipment, supplies, materials and services from any state or the United States or any agency thereof, or from any institution, foundation, organization, person, firm or corporation, and may utilize and dispose of the same.

8. The entity providing management services to the district shall review all proposals and recommendations for projects to be funded with funds of the district and shall forward to the board recommendations which are, in the discretion of the management entity, consistent with the plan adopted by the district. The district may provide donations, contributions, loans and grants or other support, financial or otherwise, for or in aid of projects unless such recommendations are not consistent with the downtown plan or adoption of such recommendation would constitute a breach of the board's fiduciary duty. In order to evaluate any such recommendation, the board may engage the services of independent public accountants, attorneys or professional financial advisors.

9. The district may enter into agreements with other political subdivisions of the state in order to accomplish its purposes.

10. The board may review or audit the books and accounts or any project which receives district funds. In order to conduct such review or audit, the district may engage the services of independent accountants and auditors.

66.780. 1. As soon as possible after the establishment of the board of trustees, the board shall adopt a downtown plan for the district which shall, among other things, delineate the specific boundaries of the downtown area, set forth priorities for the

**development or revitalization of downtown and establish budgetary guidelines for the achievement of the same.**

**2. Any plan in effect for the district shall not be inconsistent with the most recent plan adopted by the planning commission of the city in which the downtown area is located and by the board of directors or its equivalent of the entity providing operational and management services to the district.**

**66.783. The board shall issue semi-annual reports which shall be available at the primary office of the board and shall be available upon request to any resident of the district. Such reports shall contain a detailed accounting of revenues received by the district and expenditures approved and made by the board.**

**66.786. 1. A district may at any time authorize or issue revenue bonds for the purpose of paying all or any part of the cost of any project. Every issue of such bonds shall be payable out of the revenues of the district and may be further secured by other property of the district which may be pledged, assigned, mortgaged, or a security interest granted for such payment, without preference or priority of the first bonds issued, subject to any agreement with the holders of any other bonds pledging any specified property or revenues. Such bonds shall be authorized by resolution of the board of the district, and if issued by the district, shall bear such date or dates, and shall mature at such time or times, but not in excess of thirty years, as the resolution shall specify. Such bonds shall be in such denomination, bear interest at such rate or rates, be in such form, either coupon or registered, be issued as current interest bonds, compound interest bonds, variable rate bonds, convertible bonds, or zero coupon bonds, be issued in such manner, be payable in such place or places and subject to redemption as such resolution may provide notwithstanding the provisions of section 108.170, RSMo. The bonds may be sold at either public or private sale, at such interest rates, and at such price or prices as the board shall determine.**

**2. Any outstanding issue of district bonds may be refunded at any time by the district through refunding bonds in such amount as the district may deem necessary. Such bonds may not exceed the amount sufficient to refund the principal of the bonds to be refunded together with any unpaid interest thereon and any premiums, commissions, service fees, and other expenses necessary to be paid in connection with the refunding. Any such refunding may be effected whether the bonds to be refunded then shall have matured or thereafter shall mature, either by sale of the refunding bonds and the application of the proceeds thereof to the payment of the bonds being refunded or by the exchange of the refunding bonds for the bonds being refunded with the consent of the holder or holders of the bonds being refunded. Refunding bonds may be issued regardless of whether the bonds being refunded were issued in connection with the same project or a separate project and**



**regardless of whether the bonds proposed to be refunded shall be payable on the same date or different date or shall be due serially or otherwise.**

**3. Bonds issued pursuant to this section shall exclusively be an obligation of the district and shall not constitute a debt or liability of the state of Missouri or any agency or political subdivision of the state other than the district. The district shall not be obligated to pay such bonds with any funds other than those specifically pledged to repayment of the bonds. Any bonds issued by a district shall state on their face that they are not obligations of the state of Missouri or any agency or political subdivision thereof other than the district.**

**4. Bonds issued pursuant to this section, the interest thereon, or any proceeds from such bonds shall be exempt from taxation in the state of Missouri for all purposes except the state estate tax.**

**66.789. 1. The district may obtain such insurance as it deems appropriate, considering its legal limits of liability, to protect itself, its officers and its agents from any potential liability and may also obtain such other types of insurance as it deems necessary to protect against loss of its real or personal property of any kind. The cost of this insurance shall be paid by the district.**

**2. The district may also require companies providing operational and management services to obtain liability insurance having the district and its trustees as additional named insureds.**

**3. The district shall not attempt to self-insure for its potential liabilities unless it finds that it has sufficient funds available to cover any anticipated judgments or settlements and still complete its project without interruption. The district may self-insure if it is unable to obtain liability insurance coverage at a rate which is economically feasible to the district, considering its resources.**

Section B. Due to the immediate need to provide for the revitalization of urban core districts, the enactment of sections 66.750 to 66.789 of this act are deemed necessary for the immediate preservation of the public health, welfare, peace and safety, and are hereby declared to be an emergency act within the meaning of the constitution, and the enactment of sections 66.750 to 66.789 of this act shall be in full force and effect upon its passage and approval.

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