

FIRST REGULAR SESSION
SENATE COMMITTEE SUBSTITUTE FOR

SENATE BILLS NOS. 323 & 230

91ST GENERAL ASSEMBLY

Reported from the Committee on Local Government and Economic Development, February 8, 2001, with recommendation that the Senate Committee Substitute do pass.

1023S.04C

TERRY L. SPIELER, Secretary.

AN ACT

To amend chapter 67, RSMo, by adding thereto seventeen new sections relating to local sales taxes for the promotion of economic development.

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

Section A. Chapter 67, RSMo, is amended by adding thereto seventeen new sections, to be known as sections 67.1922, 67.1925, 67.1928, 67.1931, 67.1934, 67.1937, 67.1940, 67.1950, 67.1953, 67.1956, 67.1959, 67.1962, 67.1965, 67.1968, 67.1971, 67.1974 and 67.1977, to read as follows:

67.1922. 1. The governing body of any county containing any part of a Corps of Engineers lake with a shoreline of at least seven hundred miles and not exceeding a shoreline of nine hundred miles may impose by order a sales tax, not to exceed one and one-half percent, on all retail sales made in such county which are subject to taxation pursuant to the provisions of sections 144.010 to 144.525, RSMo, for the purpose of promoting water quality, infrastructure and tourism through programs designed to affect the economic development of the county. The tax authorized by this section shall be in addition to any and all other sales taxes allowed by law; except that no order imposing a sales tax pursuant to the provisions of this section shall be effective unless the governing body of the county submits to the voters of the county, at a municipal or state primary, general or special election, a proposal to authorize the governing body of the county to impose a tax.

2. The ballot of submission shall contain, but need not be limited to, the following language:

Shall the county of (county's name) impose a county-wide sales tax

of (insert percent) for the purpose of creating and implementing water quality, infrastructure and tourism programs affecting economic development in the county as provided by law?

Yes

No

If you are in favor of the question, place an "X" in the box opposite "Yes". If you are opposed to the question, place an "X" in the box opposite "No".

If a majority of the votes cast on the proposal by the qualified voters of the county voting thereon are in favor of the proposal, then the order shall become effective on the first day of the second calendar quarter after the director of revenue receives notice of adoption of the tax. If the proposal receives less than the required majority, then the governing body of the county shall have no power to impose the sales tax authorized pursuant to this section unless and until the governing body shall again have submitted another proposal to authorize the governing body to impose the sales tax authorized by this section and such proposal is approved by the required majority of the qualified voters of the county voting on such proposal.

67.1925. 1. All revenue received by a county from the tax authorized pursuant to the provisions of section 67.1922 shall be deposited in a special trust fund, and be used solely for the purposes specified in the proposal submitted pursuant to subsection 1 of section 67.1922 for so long as the tax shall remain in effect.

2. Once the tax authorized pursuant to the provisions of section 67.1922 is abolished or terminated by any means, all funds remaining in the special trust fund shall be used solely for activities initiated with revenues raised by the tax authorized. Any funds in such special trust fund which are not needed for current expenditures may be invested by the governing body in accordance with applicable laws relating to the investment of other county funds.

3. All sales taxes collected by the director of revenue pursuant to section 67.1922 less one percent for cost of collection which shall be deposited in the state's general revenue fund after payment of premiums for surety bonds as provided in section 32.087, RSMo, shall be deposited in a special trust fund, which is hereby created, to be known as the "Economic Development Sales Tax Trust Fund". The moneys in the economic development sales tax trust fund shall not be deemed to be state funds and shall not be commingled with any funds of the state. The director of revenue shall keep accurate records of the amount of money in the trust and which was collected in each county imposing a sales tax pursuant to this section, and the records shall be open to inspection by officers of the county and the public. Not later than the tenth day of each month the director of revenue shall distribute all moneys deposited in the trust fund during the preceding month to the county which levied the tax; such funds shall be

deposited with the county treasurer of each such county, and all expenditures of funds arising from the local economic development trust fund shall be by an appropriation act to be enacted by the governing body of such county. Expenditures may be made from the fund for any purposes authorized pursuant to subsection 1 of section 67.1922, provided water quality programs receive one third, infrastructure programs receive one third and tourism programs receive one third.

4. The director of revenue may authorize the state treasurer to make refunds from the amounts in the trust fund and credit any county for erroneous payments and overpayments made, and may redeem dishonored checks and drafts deposited to the credit of such counties. If any county abolishes the tax, the county shall notify the director of revenue of the action at least ninety days prior to the effective date of the repeal and the director of revenue may order retention in the trust fund, for a period of one year, of two percent of the amount collected after receipt of such notice to cover possible refunds or overpayment of the tax and to redeem dishonored checks and drafts deposited to the credit of such accounts. After one year has elapsed after the effective date of abolition of the tax in such county, the director of revenue shall remit the balance in the account to the county and close the account of that county. The director of revenue shall notify each county of each instance of any amount refunded or any check redeemed from receipts due the county.

5. Except as modified in this section, all provisions of sections 32.085 and 32.087, RSMo, shall apply to the tax imposed pursuant to section 67.1922.

67.1928. For purposes of sections 67.1922 to 67.1940, appropriations from the economic development sales tax trust fund may be used for the following:

(1) Comprehensive programs encouraging the prevention, control and abatement of water pollution within the county;

(2) Cooperating with agencies of the state, the federal government, other states and interstate agencies, and with affected groups, political subdivisions and industries in furtherance of the purposes of sections 644.006 to 644.141, RSMo;

(3) Encouraging, participating in or conducting studies, investigations and research relating to water pollution causes and prevention pursuant to sections 644.006 to 644.141, RSMo;

(4) Collecting and disseminating information relating to water pollution and the prevention, control and abatement, pursuant to sections 644.006 to 644.141, RSMo;

(5) Developing, implementing and carrying out comprehensive programs for encouragement, promotion and necessary construction for the orderly development of water and sewage systems and infrastructure, including roads interconnecting to state highways within the county;

(6) Formulating programs for the promotion of fishing and hunting areas, historical sites, vacation regions and areas of historic or scenic interest;

(7) Cooperating with civic groups and local, state and federal departments and agencies, and departments and agencies of other states in encouraging educational tourism and developing programs therefor;

(8) Publishing tourist promotional material such as brochures and booklets; and

(9) Promoting tourism in the county by any means including but not limited to articles and advertisements in magazines, newspapers, radio, television, internet and travel publications and by establishing promotional exhibitions at travel shows and similar exhibitions.

67.1931. 1. The governing body of the county may borrow money and issue notes, certificates or other evidences of indebtedness to accomplish the purposes pursuant to sections 67.1922 to 67.1940.

2. Nothing in sections 67.1922 to 67.1940 shall be construed to authorize the county to establish or enforce any regulation or rule to promote any program which is in conflict with any federal or state law or regulation applicable to the same subject matter.

3. Nothing in sections 67.1922 to 67.1940 shall be construed to require the county to enforce Missouri's environmental laws when the obligation and authority for enforcement rests with the department of natural resources.

67.1934. The governing body of the county, when presented with a petition, signed by at least twenty percent of the registered voters in the county that voted in the last gubernatorial election, calling for an election to repeal the tax shall submit the question to the voters using the same procedure by which the imposition of the tax was voted. The ballot of submission shall be in substantially the following form:

Shall County, Missouri, repeal the percent economic development sales tax for promoting water quality, infrastructure and tourism now in effect in the county?

Yes

No

If you are in favor of the question, place an "X" in the box opposite "Yes". If you are opposed to the question, place an "X" in the box opposite "No".

If a majority of the votes cast on the proposal by the qualified voters of the county voting thereon are in favor of repeal, that repeal shall become effective December thirty-first of the calendar year in which such repeal was approved or after the repayment of the county's indebtedness incurred pursuant to sections 67.1922 to 67.1940, whichever occurs later.

67.1937. The governing body of the county shall provide for the proper and safe

keeping of its permanent records. It shall keep a true and accurate account of its receipts and an annual audit shall be made of its books, records and accounts.

67.1940. 1. Any person desiring to donate property for the benefit of the county may vest title to the property so donated in the county, and the county shall hold and control the property so received and accepted according to the terms of the deed, gift, devise or bequest of the property, and shall be a trustee of the property and shall take title to all property it may acquire in the name of the county and shall control the property, for purposes pursuant to sections 67.1922 to 67.1940.

2. The governing body of the county may accept gifts, contributions, donations, loans and grants from the federal government and from other sources, public or private, for carrying out any of its functions, which funds shall not be expended for other than the purposes pursuant to sections 67.1922 to 67.1940.

67.1950. As used in sections 67.1950 to 67.1977, the following terms shall mean:

(1) "Board of directors" or "board", tourism community enhancement district board of directors established pursuant to section 67.1956;

(2) "Convention and visitors bureau", a not-for-profit corporation established and operated for the sole purpose of promoting convention and other tourism activities in the county, city, town or village;

(3) "Destination marketing organization", a not-for-profit corporation established for the purpose of tourism marketing and designated by the division of tourism as such;

(4) "District", a tourism community enhancement district;

(5) "Funeral services", all labor and services used in preparation for, in the course of or completion of a funeral, excluding the sale of caskets and vaults.

67.1953. 1. The governing body of any county, city, town or village, having a population of less than one hundred thousand inhabitants, may create a tourism community enhancement district in the manner provided in this section and, upon establishment, each such district shall be a body corporate and politic of the state. If such district is established, it shall consist of the boundaries delineated in the petition filed with the governing body of a county, city, town or village pursuant to this section, and such boundaries may extend beyond the boundaries of the county, city, town or village creating such district, but shall not overlap with the boundaries of any previously incorporated tourism community enhancement district.

2. The governing body of a county, city, town or village may create a district when a proper petition has been signed by at least two percent of the registered voters of a county, city, town or village within such proposed district. The petition, in order to become effective, shall be filed with the clerk of the county, city, town or village that

includes a majority of the area within the proposed district. A proper petition for the creation of a district shall set forth the boundaries of the proposed district and the maximum proposed sales tax rate up to one percent.

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

4. The plans and specifications for the district shall be filed with the clerk, as applicable, and shall be open for public inspection. Such clerk shall thereupon, at the direction of the governing body, publish notice that the governing body will conduct a hearing to consider the proposed district. Such notice shall be published in a newspaper of general circulation at least twice not more than thirty days and not less than seven days before the hearing and shall state the name for the district, the date, time and place of such hearing, the boundaries of the district, and that written or oral objections will be considered at the hearing.

5. If the governing body, following the hearing, decides to establish the proposed district, it shall adopt an order or ordinance to that effect. The order or ordinance shall contain the following:

(1) The name of the district;

(2) A statement that a tourism community enhancement district has been established; and

(3) The creation of a board of directors and enumeration of its duties and responsibilities, as provided by section 67.1956.

67.1956. 1. In each tourism community enhancement district established pursuant to section 67.1953, there shall be a board of directors, to initially consist of not less than five members. One member shall be selected by the governing body of the city, town or village, with the largest population, at the inception of the district, within the district. One member shall be selected by the governing body of the city, town or village, with the second largest population, at the inception of the district, within the district, if such a city, town or village exists in the district. If no such city, town or village exists in the district then one member shall be selected by the board of directors of the district from the unincorporated area of such district. Two members shall be selected by the largest convention and visitor's bureau or similar organization, at the inception of the district, within the district. One member shall be selected by the destination marketing organization of the second largest county, city, town or village, at the inception of the district, within the district. Of the members first selected, the two members from the city, town or village shall be selected for a term of three years, the two members from the convention and visitor's bureau shall be selected for a term of two years, and the member from the destination marketing organization of the second

largest city shall be selected for a term of one year. Thereafter, each member selected shall serve a three-year term. Every member shall be a resident of the district. All members shall serve without compensation. Any vacancy within the board shall be filled in the same manner as the person who vacated the position was selected, with the new person serving the remainder of the term of the person who vacated the position. The board shall elect its own treasurer, secretary and such other officers as it deems necessary and expedient, and it may make such rules, regulations, and bylaws to carry out its duties pursuant to sections 67.1950 to 67.1977.

2. Any time a district is expanded by either an unincorporated or incorporated area, the board shall be expanded by two members. One member shall be appointed by the governing body of the incorporated area added to the district or by the board of directors of the district for the unincorporated area added to the district and one member shall be appointed by the governing body of the city, town or village with the largest population at the inception of the district for the first expansion and every odd numbered expansion thereafter, or by the convention and visitor's bureau or similar entity of the largest city, town or village, at the inception of the district, for the second expansion and every even numbered expansion thereafter.

3. The board, on behalf of the district, may:

(1) Cooperate with public agencies and with any industry or business located within the district in the implementation of any project;

(2) Enter into any agreement with any public agency, person, firm, or corporation to implement any of the provisions of sections 67.1950 to 67.1977;

(3) Contract and be contracted with, and sue and be sued; and

(4) Accept gifts, grants, loans, or contributions from the United States of America, the state, any political subdivision, foundation, other public or private agency, individual, partnership or corporation on behalf of the tourism enhancement district community.

67.1959. 1. The board, by a majority vote, may submit to the residents of such district a tax of not more than one percent on all retail sales, including leases of motor vehicles, except sales of new or used motor vehicles, trailers, boats, or other outboard motor and sales of funeral services, made within the district which are subject to taxation pursuant to the provisions of sections 144.010 to 144.525, RSMo. Upon the written request of the board to the election authority of the county in which a majority of the area of the district is situated, such election authority shall submit a proposition to the residents of such district at a municipal or statewide primary or general election, or at a special election called for that purpose. Such election authority shall give legal notice as provided in chapter 115, RSMo.

2. Such proposition shall be submitted to the voters of the district in substantially the following form at such election:

Shall the Tourism Community Enhancement District impose a sales tax of..... (insert amount) for the purpose of promoting tourism and community enhancements in the (name of county, city, town or village that includes a majority of the area within the proposed district) Tourism Community Enhancement District?

Yes

No

If you are in favor of the question, place an "X" in the box opposite "Yes". If you are opposed to the question, place an "X" in the box opposite "No".

If a majority of the votes cast on the proposal by the qualified voters of the proposed district voting thereon are in favor of the proposal, then the order shall become effective on the first day of the second calendar quarter after the director of revenue receives notice of adoption of the tax. If the proposal receives less than the required majority, then the board shall have no power to impose the sales tax authorized pursuant to this section unless and until the board shall again have submitted another proposal to authorize the board to impose the sales tax authorized by this section and such proposal is approved by the required majority of the qualified voters of the district.

67.1962. 1. All revenue received by a district from the tax authorized pursuant to the provisions of section 67.1959 shall be deposited in a special trust fund, and be used solely for the purposes specified in the proposal submitted pursuant to subsection 1 of section 67.1959 for so long as the tax shall remain in effect.

2. All sales taxes collected by the director of revenue pursuant to section 67.1959 less one percent for cost of collection which shall be deposited in the state's general revenue fund after payment of premiums for surety bonds as provided in section 32.087, RSMo, shall be deposited in a special trust fund, which is hereby created, to be known as the "Tourism Community Enhancement District Sales Tax Trust Fund". The moneys in the tourism community enhancement district sales tax trust fund shall not be deemed to be state funds and shall not be commingled with any funds of the state. The director of revenue shall keep accurate records of the amount of money in the trust and which was collected in each district imposing a sales tax pursuant to this section, and the records shall be open to inspection by officers of the county, city, town or village and the public. Not later than the tenth day of each month the director of revenue shall distribute all moneys deposited in the trust fund during the preceding month to the board which levied the tax; such funds shall be deposited with the board treasurer of each such district.

3. The director of revenue may authorize the state treasurer to make refunds from the amounts in the trust fund and credit any district for erroneous payments and

overpayments made, and may redeem dishonored checks and drafts deposited to the credit of such district. If any district abolishes the tax, the district shall notify the director of revenue of the action at least ninety days prior to the effective date of the repeal and the director of revenue may order retention in the trust fund, for a period of one year, of two percent of the amount collected after receipt of such notice to cover possible refunds or overpayment of the tax and to redeem dishonored checks and drafts deposited to the credit of such accounts. After one year has elapsed after the effective date of abolition of the tax in such district, the director of revenue shall remit the balance in the account to the district and close the account of that district. The director of revenue shall notify each district of each instance of any amount refunded or any check redeemed from receipts due the district.

4. Except as modified in this section, all provisions of sections 32.085 and 32.087, RSMo, shall apply to the tax imposed pursuant to section 67.1959.

67.1965. Notwithstanding the provisions of section 67.1962, if the board chooses, on and after the effective date of any tax authorized pursuant to the provisions of this section, the board may enter into an agreement with either the county collector of the county where the majority of the area of the district is situated for the purpose of collecting the tax or the city collector of the largest city existing at the inception of the district. The tax to be collected by the county or city collector shall be remitted to the board of the district not later than thirty days following the end of any calendar quarter. The governing body of the county or city shall adopt rules and regulations for the collection and administration of the tax. The county or city collector shall retain on behalf of the county or city one percent for cost of collection.

67.1968. Expenditures may be made from the tourism community enhancement district sales tax trust fund or moneys collected pursuant to section 67.1965 for any purposes authorized pursuant to subsection 1 of section 67.1959, provided as follows:

(1) Ten percent of the revenues shall be used for education purposes. The board shall transmit those revenues to the school district or districts within the district, on a basis of revenue collected within each school district. These revenues shall not be used in any manner with respect to the calculation of the state school aid pursuant to chapter 163, RSMo;

(2) Ten percent of the revenues collected from the tax authorized by this section shall be used by the board for senior citizen or youth or community enhancement purposes within the district. The board shall distribute these revenues to the cities, towns and villages based upon the amount of sales tax collected within each city, town or village and the portion of the revenues not attributable to any city, town or village shall be distributed at the discretion of the board;

(3) Seventy-five percent of the revenues shall be used by the board for marketing, advertising and promotion of tourism. The district shall enter into an agreement with a not-for-profit organization providing local support services, including but not limited to visitor's centers, to conduct and administer public relations, sales and marketing of tourism on behalf of the district to enhance the economic health of the district. Such marketing, advertising and promotional activities shall be developed into a comprehensive marketing plan, for the benefit of the district;

(4) Two percent of the revenues shall be distributed among each destination marketing organization located within each school district or districts within the district based upon the amount of sales tax collected within each school district;

(5) Two percent of the revenues shall be transmitted to the not-for-profit organization conducting and administering the marketing plan within the district for purposes of administering the marketing plan.

67.1971. All entities remitting the sales tax authorized pursuant to section 67.1959 shall have their liability reduced by an amount equal to twenty-five percent of any taxes collected and remitted pursuant to sections 94.802 to 94.805, RSMo.

67.1974. The boundaries of the district may be expanded by the addition of either an adjacent unincorporated or incorporated area. Upon presentation of a petition to the board signed by two percent of registered voters residing in either the unincorporated or incorporated area adjacent to the district. If the board determines that expansion is in the best interest of the current district, then the board shall give written notice to the election authority in the county in which the unincorporated or incorporated area is located to call an election. The election authority shall submit a proposition to the residents of the unincorporated or incorporated area at a municipal or state primary or general election, or at a special election called for that purpose. Such election authority shall give notice as provided in chapter 115, RSMo. The proposition shall be submitted to voters in the unincorporated or incorporated area in substantially the following manner:

Shall the (unincorporated or incorporated area) of (county, city, town or village) be included in the (name of district) Tourism Community Enhancement District and any sales tax imposed by the (name of district) Tourism Community Enhancement District also be imposed in the (unincorporated or incorporated area) of (county, city, town or village)?

Yes

No

If you are in favor of the question, place an "X" in the box opposite "Yes". If you are opposed to the question, place an "X" in the box opposite "No".

If a majority of the votes cast on the proposal by the qualified voters of the

unincorporated or incorporated area voting thereon are in favor of the proposal, then the order shall become effective on the first day of the second calendar quarter after the director of revenue receives notice of adoption of the tax. If the proposal receives less than the required majority, then the board shall have no power to impose the sales tax authorized pursuant to this section unless and until the board shall again have submitted another proposal to authorize the expansion of the current district and such proposal is approved by the required majority of the qualified voters of the unincorporated or incorporated area voting on such proposal.

67.1977. 1. The board, when presented with a petition signed by at least one-third of the registered voters in the district that voted in the last gubernatorial election, calling for an election to dissolve and repeal the tax shall submit the question to the voters using the same procedure by which the imposition of the tax was voted. The ballot of submission shall be in substantially the following form:

Shall (name of district) dissolve and repeal the (insert amount) percent tourism community enhancement district sales tax now in effect in the (name of district)?

Yes

No

If you are in favor of the question, place an "X" in the box opposite "Yes". If you are opposed to the question, place an "X" in the box opposite "No".

If a majority of the votes cast on the proposal by the qualified voters of the district voting thereon are in favor of repeal, that repeal shall become effective December thirty-first of the calendar year in which such repeal was approved or after the repayment of the district's indebtedness incurred pursuant to sections 67.1950 to 67.1962, whichever occurs later.

2. No dissolution of such tourism community enhancement district shall invalidate or affect any right accruing to such tourism community enhancement district or to any person or invalidate or affect any contract entered into or imposed on such tourism community enhancement district.

3. Whenever the board of directors dissolves any such tourism community enhancement district, the governing body of the city with the largest population at inception of the district, shall appoint a person to act as trustee for the district so dissolved, and such trustee, before entering upon the discharge of his duties, shall take and subscribe an oath that he will faithfully discharge the duties of his office, and shall give bond with sufficient security to be approved by the governing body of the city, to the use of such dissolved tourism community enhancement district, conditioned for the faithful discharge of this duty. The trustee may prosecute and defend to final judgment all suits instituted by or against the district, collect all moneys due the district, liquidate

all lawful demands against the district, and for that purpose shall sell any property belonging to such district, or so much thereof as may be necessary, and generally to do all acts requisite to bring to a speedy close all the affairs of the district.

4. When the trustee has closed the affairs of the tourism community enhancement district, and has paid all debts due by such district, he shall pay over to the treasurer of the school district, or school districts within the district, all money remaining in his hands, based upon the amount of sales taxes collected in each school district in the prior calendar year, and take receipts therefor, and deliver to the governing body of the city with the largest population at inception of the district, all books, papers, records and deeds belonging to the dissolved district. These revenues shall not be used in any manner with respect to the calculation of the state school aid pursuant to chapter 163, RSMo.

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