

FIRST REGULAR SESSION

SENATE BILL NO. 523

91ST GENERAL ASSEMBLY

INTRODUCED BY SENATORS SCOTT, SIMS AND STAPLES.

Read 1st time February 21, 2001, and 1,000 copies ordered printed.

TERRY L. SPIELER, Secretary.

2075S.021

AN ACT

To amend chapter 67, RSMo, by adding thereto eight new sections relating to certain sports facilities.

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

Section A. Chapter 67, RSMo, is amended by adding thereto eight new sections, to be known as sections 67.2050, 67.2053, 67.2056, 67.2059, 67.2062, 67.2065, 67.2068 and 67.2071, to read as follows:

67.2050. As used in sections 67.2050 to 67.2071, the following terms mean:

- (1) "Authority", the greater St. Louis sports authority created in section 67.660;**
- (2) "Bond", any bond, including refunding bonds, notes, interim certificates, debentures, or other obligations issued by an authority pursuant to section 67.2053;**
- (3) "Chief executive", the mayor of the city, the county executive of a county or the chief executive officer of a county;**
- (4) "City", any city not within a county;**
- (5) "County", any county of the first classification having a charter form of government with a population of more than nine hundred thousand inhabitants, any county of the first classification with a population of at least two hundred ten thousand but not more than three hundred thousand, any county of the first classification with a population of at least eighty thousand but not more than eighty-three thousand, and any county of the first classification with a population of at least one hundred seventy thousand but not more than two hundred thousand;**
- (6) "Sports facilities", sports stadiums, sports complexes, ballparks, field houses, indoor and outdoor recreational and entertainment facilities and centers, playing fields, parking facilities and other suitable concessions, and all things incidental or necessary**

to a complex suitable for all types of entertainment activities and for all types of sports and recreation, either professional or amateur, commercial or private, either upon, above or below the ground, except that no such facility shall be used, in any fashion, for the purpose of horse racing or dog racing; and provided that any such facility constructed after August 28, 2001, shall be:

(a) For use principally by a major league professional baseball team for competitive sports events involving other major league professional baseball teams;

(b) Designed and constructed to meet the franchise and other league standards applicable to such team;

(c) Located in the city.

67.2053. 1. In addition to the duties of the authority specified in section 67.661, the authority shall have the following powers:

(1) To acquire by gift, bequest, purchase, lease or sublease from public or private sources, to own, plan, construct, operate or maintain, and to lease or sublease to or from others, sports facilities;

(2) To adopt bylaws for the regulation of its affairs and the conduct of its business;

(3) To maintain an office, and to conduct its meetings at such place or places in the city or the county as it may designate;

(4) To charge and collect fees and rents for use of the facilities owned or operated by it or leased or subleased from or to others and to deposit any funds received pursuant to sections 67.2050 to 67.2071 in a savings or checking account in a bank, credit union or savings and loan association in the state;

(5) To adopt a common seal;

(6) To contract and to be contracted with, including, without limitation, the authority to enter into contracts with the state, cities, counties and other political subdivisions and public agencies pursuant to sections 70.210 to 70.325, RSMo, or pursuant to any other law, and to enter into contracts with other entities, in connection with the acquisition by gift, bequest, purchase, lease or sublease of, or in connection with the planning, construction, financing, leasing, subleasing, operation and maintenance of, any sports facility and for any other lawful purpose, and to sue and to be sued;

(7) To receive for its lawful activities any rentals, contributions or moneys appropriated or otherwise designated for payment to the authority by municipalities, counties, the state or other political subdivisions or public agencies or by the federal government or any agency or officer of the federal government or from any other source, whether public or private;

(8) To disburse funds for its lawful activities and fix salaries and wages of its officers and employees;

(9) To invest any of the authority's funds in such types of investments as shall be determined by a resolution adopted by the commissioners of the authority;

(10) To borrow money for the acquisition, planning, construction, equipping, operation, maintenance, repair, extension and improvement of any facility, or any part or parts of any facility, which it has the power to own, lease or operate, and for any other proper corporate purpose, and to issue negotiable notes, bonds or other instruments in writing as evidence of sums borrowed, as follows:

(a) Bonds issued initially pursuant to this subdivision shall be issued pursuant to a resolution adopted by the commissioners of the authority certifying that amounts have been received from the city, counties and any private parties, and placed in the sports facilities fund established pursuant to section 67.2062, which in total are equal to or greater than the amount of the state's portion of the sales tax revenue, pursuant to section 67.2068, for the immediately preceding twelve months, attributable to the existing facility used by a major league professional baseball team. The resolution shall also set out the estimated cost to the authority of the proposed facility or facilities, the amount of bonds to be issued and their purpose or purposes, and shall further provide their date or dates, denomination or denominations, rate or rates of interest, time or times of payment, both of principal and interest, place or places of payment and all other details in connection with such bonds. Bonds issued subsequent to the initial bond issuance shall be issued pursuant to a resolution adopted by the commissioners of the authority without the necessity for or certification of local matching funds but including all other information. Any such bonds may be subject to such provisions for redemption prior to maturity, with or without premium, and at such times and upon such conditions as may be provided by the resolution;

(b) Notwithstanding the provisions of section 108.170, RSMo, such bonds shall bear interest at such rate or rates determined by the authority and shall mature within a period not exceeding fifty years and may be sold at public or private sale for not less than ninety-five percent of the principal amount of such bond. Bonds issued by the authority shall possess all of the qualities of negotiable instruments pursuant to the laws of this state;

(c) Such bonds may be payable to bearer, may be registered or coupon bonds and, if payable to bearer, may contain such registration provisions as to either principal and interest, or principal only, as may be provided in the resolution authorizing the bonds, which resolution may also provide for the exchange of registered and coupon bonds. Such bonds and any coupons attached to such bonds shall be signed in such

manner and by such officers of the authority as may be provided for by the resolution authorizing the bonds. The authority may provide for the replacement of any bond which shall become mutilated, destroyed or lost;

(d) Bonds issued by the authority shall be payable as to principal, interest and redemption premium, if any, out of all or any part of the general funds of the authority, including rents, revenues, receipts and income derived and to be derived for the use of any facility or combination of facilities, or any part or parts of facilities, acquired, constructed, improved or extended in whole or in part from the proceeds of such bonds, including but not limited to sports facilities rentals, concessions and parking facilities, and from funds derived from any other facilities or part or parts of such facilities, owned or operated by the authority, all or any part of which rents, revenues, receipts and income the authority is authorized to pledge for the payment of said principal, interest, and redemption premium, if any, except that direct appropriations of tax revenues received by the authority pursuant to sections 67.2050 to 67.2071 or otherwise, other than appropriations for or credited to the payment of rent, shall not be pledged for the payment of such bonds. Neither the commissioners of the authority nor any person executing its bonds shall be personally liable on such bonds by reason of the issuance of such bonds. Bonds issued pursuant to sections 67.2050 to 67.2071 shall not constitute a debt, liability or obligation of the state of Missouri, or any political subdivision of the state, nor shall any such obligations be a pledge of the faith and credit of the state, but shall be payable solely from the revenues and assets held by the authority. The issuance of bonds pursuant to sections 67.2050 to 67.2071 shall not, directly, indirectly or contingently, obligate the state or any political subdivision of the state, or the authority, to levy any form of taxation for such bonds or to make any appropriation for their payment. Each obligation or bond issued pursuant to sections 67.2050 to 67.2071 shall contain on the face of the bond a statement to the effect that the authority shall not be obligated to pay the bond or the interest on the bond except from the revenues received by the authority or assets of the authority lawfully pledged for the bond, and that neither the faith and credit nor the taxing power of the state or of any political subdivision of the state is pledged to the payment of the principal of or the interest on such obligation or bond. Bonds issued pursuant to this section may be further secured by a mortgage, deed of trust, trust agreement, pledge agreement, assignment or security agreement upon the rents, revenues, receipts and income referred to in this section or any part of such rents, revenues, receipts and income, or upon any leasehold interest or other property owned by the authority, or any part of such property, whether then owned or thereafter acquired, except that direct appropriations of tax revenues received by the authority pursuant to sections 67.2050 to 67.2071 or otherwise, other than

appropriations for or credited to the payment of rent, shall not secure such bonds. The proceeds of such bonds shall be disbursed in such manner and under such restrictions as the authority may provide in the resolution authorizing the issuance of such bonds or in any such mortgage, deed of trust, trust agreement, pledge agreement or security agreement;

(e) The authority shall fix and maintain rates and rentals and make and collect charges for the use and services of its interest in the facility or facilities or any part of such facilities owned or operated by the authority which shall be sufficient, when combined with any other amounts generated and available pursuant to sections 67.2050 to 67.2071, to pay the cost of operation and maintenance of such facilities, to pay the principal of and interest on any such bonds payable from such rates, rentals and charges and to provide funds sufficient to meet all requirements of the resolution by which such bonds have been issued;

(f) The resolution authorizing the issuance of any such bonds may provide for the allocation of rents, revenues, receipts and income derived and to be derived by the authority from the use of any facility or part of such facility, and of the proceeds received pursuant to sections 67.2050 to 67.2071, into such separate accounts as shall be deemed to be advisable to assure the proper operation and maintenance of any facility or part of such facility and the prompt payment of any bonds issued to finance all or any part of the costs of such facility. Such accounts may include reserve accounts necessary for the proper operation and maintenance of any such facility or any part of such facility, and for the payment of any such bonds. Such resolution may include such other covenants and agreements by the authority as in its judgment are advisable or necessary properly to secure the payment of such bonds;

(g) The authority may issue negotiable refunding bonds for the purpose of refunding, extending or unifying the whole or any part of such bonds then outstanding, or any bonds, notes or other obligations issued by any other public agency, public body or political subdivision in connection with any facilities to be acquired, leased or subleased by the authority, which refunding bonds shall not exceed the amount necessary to refund the principal of the outstanding bonds to be refunded and any unpaid interest thereon, together with any redemption premium, amounts necessary to establish reserve and escrow funds and all costs and expenses incurred in connection with the refunding. The authority may provide for the payment of interest on such refunding bonds at a rate in excess of the bonds to be refunded;

(h) In case any of the commissioners or officers of the authority whose signatures appear on any bonds or coupons shall cease to be such commissioners or officers before the delivery of such bonds, such signatures shall, nevertheless, be valid

and sufficient for all purposes, the same as if such commissioners or officers had remained in office until such delivery;

(i) The authority is hereby declared to be performing a public function and bonds of the authority are declared to be issued for an essential public and governmental purpose and, accordingly, interest on such bonds and income from such bonds shall be exempt from income taxation by the state of Missouri;

(11) To perform all other necessary and incidental functions, and to exercise such additional powers as shall be conferred by the general assembly or by act of Congress.

2. The authority shall proceed to carry out its duties, functions and powers in accordance with sections 67.2050 to 67.2071, and the authority is vested with all necessary and appropriate powers not inconsistent with the Constitution or the laws of the United States to effectuate such duties, except the power to levy taxes or assessments. In no event shall the state be liable for any deficiency or indebtedness incurred by the authority.

3. The authority shall grant or award at least fifteen percent of all contracts, employment opportunities, professional services and all other special contracts to persons who are members of a racial minority group, as defined in section 33.750, RSMo.

4. The authority and any city, county, other political subdivision or public agency obtaining funds pursuant to the provisions of this chapter shall be subject to the provisions of sections 34.073 and 34.076, RSMo.

5. In the event that the authority determines that moneys of the authority will not be sufficient for the payment of the principal of and interest on its bonds during the next state fiscal year, excluding amounts in any debt service reserve fund for those bonds, the chairman of the authority shall certify to the governor of the state of Missouri, as soon as is practicable, the amount required by the authority to enable it to pay the principal of and interest on the bonds. The governor shall submit the amount so certified to the general assembly as soon as practicable, but not later than the end of the current state fiscal year.

6. In the event of a withdrawal of moneys from a reserve fund established with respect to any issue or issues of bonds of the authority to pay principal or interest on such bonds, the chairman, as soon as practicable, shall certify to the governor the amount required to restore such reserve fund to the level required in the resolution or indenture securing the bonds. The governor shall submit the amount so certified to the general assembly as soon as practicable, but not later than the end of the current state fiscal year.

7. Subsections 5 and 6 of this section shall not apply to any bonds as to which the

authority shall have determined, in the resolution authorizing the issuance of the bonds, that subsections 5 and 6 shall not apply. Whenever the authority makes such a determination, that fact shall be plainly stated on the face of the bonds and that fact shall also be reported to the governor. The authority shall obtain written approval from the governor for bonds and notes to which subsections 5 and 6 shall apply.

67.2056. The bonds of the authority are securities in which all public officers and bodies of this state and all municipalities and municipal subdivisions, all insurance companies and associations and other persons carrying on an insurance business, all banks, trust companies, savings associations, savings and loan associations and investment companies, all administrators, guardians, executors, trustees and other fiduciaries, and all other persons whatsoever who are now or may hereafter be authorized to invest in bonds or other obligations of the state, may properly and legally invest funds, including capital, in their control or belonging to them.

67.2059. The income of the authority and all properties at any time owned by the authority shall be exempt from all taxation in the state of Missouri. For the purposes of section 409.402, RSMo, all bonds issued by the authority shall be deemed to be securities issued by a public instrumentality of the state of Missouri.

67.2062. There is hereby created in the state treasury a "Sports Facilities Fund", which shall consist of any rents, fees or charges received by the authority pursuant to any contract, agreement, lease or sublease provided for in subsection 3 of section 67.2065, of all moneys deposited in such fund pursuant to section 67.2068, and of all gifts, bequests or donations of any kind to the fund. The sports facilities fund shall be administered by the authority and shall be used to carry out the provisions of sections 67.2050 to 67.2071. The provisions of section 33.080, RSMo, to the contrary notwithstanding, all moneys in the fund shall not be transferred and placed to the credit of the general revenue fund at the end of each biennium. All interest and moneys earned on the fund shall be credited to the fund.

67.2065. 1. Nothing contained in sections 67.2050 to 67.2071 shall impair the powers of any county, municipality or other political subdivision to acquire, own, operate, develop or improve any facility of the type the authority is given the right and power to own, operate, develop or improve.

2. The state, any county, city, municipality or other political subdivision or public agency or instrumentality are authorized to make gifts, donations, grants and contributions of money or real or personal property to the authority, whether such money or property is derived from tax revenues or from any other source.

3. The state or any agency, department or instrumentality of the state and the city, a county, any other county or city or any political subdivision, public agency or

public body, or any combination thereof pursuant to sections 70.210 to 70.325, RSMo, or any other law, may enter into contracts, agreements, leases and subleases with each other, the authority and others to acquire, sell, convey, lease, sublease, own, operate, finance, develop or improve, or any combination of such activities, any facility of the type the authority is given the right to construct, own, operate, develop or improve, including without limitation to agree to pay, and to pay, rents or other fees or charges, subject to annual appropriations, and to mortgage, pledge, assign, convey, or grant security in any interest which any such entity may have in such facility.

67.2068. The state's portion of all sales tax revenue collected pursuant to sections 144.010 to 144.525, RSMo, when generated by sales inside, on the grounds of, or for tickets to any event in, any sports facility which is owned, leased, subleased or operated by the authority shall, subject to appropriation, be placed in the sports facilities fund established by the authority pursuant to section 67.2062, for the purposes of the acquisition, planning, construction, equipping, operation, maintenance, repair, replacement, leasing, extension and improvement of such facility, including the repayment of any indebtedness or other obligations incurred for such purposes.

67.2071. In lieu of the annual report required pursuant to section 67.661, the authority shall, before the second Monday in April, make an annual report to the chief executives and governing bodies of the city and each county, respectively, and to the general assembly stating the condition of the authority on the first day of January of that year, and the various sums of money received and distributed by it during the preceding calendar year, except that after the second year of operation and each year thereafter, such report to the general assembly shall be made in January. The authority shall employ an independent firm of accountants to conduct a biennial audit of all accounts and transactions of the authority.