

SECOND REGULAR SESSION
SENATE COMMITTEE SUBSTITUTE FOR
SENATE BILL NO. 754
92ND GENERAL ASSEMBLY

Reported from the Committee on Ways and Means, February 9, 2004, with recommendation that the Senate Committee Substitute do pass and be placed on the Consent Calendar.

2769S.07C

TERRY L. SPIELER, Secretary.

AN ACT

To repeal sections 67.793 and 67.799, RSMo, and to enact in lieu thereof three new sections relating to the creation of exhibition center and recreational facility districts.

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

Section A. Sections 67.793 and 67.799, RSMo, are repealed and three new sections enacted in lieu thereof, to be known as sections 67.793, 67.799, and 67.2000, to read as follows:

67.793. 1. Whenever the creation of a regional recreational district is desired, one hundred or more persons residing in the proposed district may file with the county clerk in which the greater part of the proposed district's population resides a petition requesting the creation of the regional recreational district. In case the proposed district is situated in two or more counties, the petition shall be filed in the office of the county clerk of the county in which the greater part of the proposed district's population resides, and the governing body of that county shall set the petition for public hearing and conduct such hearing. The petition shall set forth:

- (1) A description of the territory to be embraced in the proposed district;
- (2) The names of the municipalities located within the proposed district;
- (3) The name of the proposed district;
- (4) The population of the proposed district;
- (5) The assessed valuation of the proposed district;
- (6) The type and rate of tax proposed to be levied; and

(7) A request that the question be submitted to the voters residing within the limits of the proposed regional recreational district whether they will establish a regional recreational district pursuant to the provisions of sections 67.792 to 67.799 to be known as

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

"..... Regional Recreational District" for the purpose of establishing, operating and maintaining public parks, neighborhood trails and recreational facilities within the boundaries of the district.

2. Whenever one hundred or more persons residing in an area contiguous to an existing regional recreational district desire to become part of that contiguous district, such persons may file a petition with the county clerk of the county in which the greater part of the population within the proposed addition to the district resides, and the governing body of that county shall set the petition for public hearing and conduct such hearing. The petition for the addition to a district shall set forth the same facts required for the creation of such a district pursuant to subdivisions (1) to (7) of subsection 1 of this section, except that:

(1) Subdivision (6) of subsection 1 of this section shall only permit the imposition of a tax on the real property located within the addition to the district; and

(2) Subdivision (7) of subsection 1 of this section shall, in the petition for the addition, be a request that the question be submitted to the voters residing within the limits of the proposed addition to the "..... regional recreational district" as to whether or not they will become a part of the "..... regional recreational district" for the purpose of establishing, operating and maintaining public parks, neighborhood trails and recreational facilities within the boundaries of such district.

3. The petition shall, after having been filed pursuant to this section, receive a hearing by the governing body of the county of filing pursuant to section 67.794.

4. The governing body of any county otherwise eligible to participate in a regional recreational district may directly authorize, by ordinance, the creation of a regional recreational district or an addition to an existing regional recreational district without the submission of a petition. The governing body of each such county shall, upon the enactment of such ordinance, submit the question of its approval to the voters in such county. If less than an entire county is proposed to participate in such a regional recreational district, the question may be submitted to the **registered and qualified** voters residing in the proposed [area, provided, that any regional recreational district which is supported by a sales tax shall be approved by the voters of the entire county] **district, or if no registered and qualified voters reside in the proposed district, to the owners of the real property located within the proposed district. Any ordinance adopted by the governing body creating a regional recreational district supported by a sales tax but with no registered and qualified voters residing within the proposed district boundaries shall be unanimously approved by the owners of real property within the proposed district.** The proposed district shall consist only of those counties, or portions of counties, where the governing body has approved an ordinance to create a district.

67.799. 1. A regional recreational district may, by a majority vote of its board of

directors, impose an annual property tax for the establishment and maintenance of public parks and recreational facilities and grounds within the boundaries of the regional recreational district not to exceed sixty cents per year on each one hundred dollars of assessed valuation on all property within the district, except that no such tax shall become effective unless the board of directors of the district submits to the voters of the district, at a county or state general, primary or special election, a proposal to authorize the tax.

2. The question shall be submitted in substantially the following form:

Shall..... cent tax per one hundred dollars assessed valuation be levied for public parks and recreational facilities?

☐ YES

☐ NO

If a majority of the votes cast on the proposal by the qualified voters voting thereon are in favor of the proposal, then the tax shall become effective. If a majority of the votes cast by the qualified voters voting are opposed to the proposal, then the board of directors shall have no power to impose the tax unless and until the board of directors of the district submits another proposal to authorize the tax and such proposal is approved by a majority of the qualified voters voting thereon.

3. The property tax authorized in subsections 1 and 2 of this section shall be levied and collected in the same manner as other ad valorem property taxes are levied and collected.

4. (1) A regional recreational district may, by a majority vote of its board of directors, impose a tax not to exceed one-half of one cent on all retail sales subject to taxation pursuant to sections 144.010 to 144.525, RSMo, for the purpose of funding the creation, operation and maintenance of public parks, recreational facilities and grounds within the boundaries of a regional recreational district. The tax authorized by this subsection shall be in addition to all other sales taxes allowed by law. No tax pursuant to this subsection shall become effective unless the board of directors submits to the voters of the district, at a county or state general, primary or special election, a proposal to authorize the tax, and such tax shall become effective only after the majority of the voters voting on such tax approve such tax. [Only whole counties participating in a regional recreational district shall be able to impose a sales tax pursuant to this subsection.]

(2) In the event the district seeks to impose a sales tax pursuant to this subsection, the question shall be submitted in substantially the following form:

Shall a cent sales tax be levied on all retail sales within the district for public parks and recreational facilities?

☐ YES

☐ NO

If a majority of the votes cast on the proposal by the qualified voters voting thereon are in favor of the proposal, then the tax shall become effective. If a majority of the votes cast by the qualified voters voting are opposed to the proposal, then the board of directors shall have

no power to impose the tax unless and until another proposal to authorize the tax is submitted to the voters of the district and such proposal is approved by a majority of the qualified voters voting thereon. The provisions of sections 32.085 and 32.087, RSMo, shall apply to any tax approved pursuant to this subsection.

5. As used in this section, "qualified voters" or "voters" means any individuals residing within the proposed district who are eligible to be registered voters and who have registered to vote under chapter 115, RSMo, or, if no individuals eligible and registered to vote reside within the proposed district, all of the owners of real property located within the proposed district who have unanimously petitioned for or consented to the adoption of an ordinance by the governing body imposing a tax authorized in this section. If the owner of the property within the proposed district is a political subdivision or corporation of the state, the governing body of such political subdivision or corporation shall be considered the owner for purposes of this section.

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 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 more than twenty-three thousand five hundred but less than twenty-three thousand six hundred inhabitants, or any county of the third classification without a township form of government and with more than nineteen thousand three hundred but less than nineteen thousand four hundred inhabitants desire to create an exhibition center and recreational facility district, the property owners shall file a petition with the governing body of each county located within the boundaries of the proposed district requesting the creation of the district. The district boundaries may include all or part of the counties described in this section. The petition shall contain the following information:

(1) The name and residence of each petitioner and the location of the real

property owned by the petitioner;

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

(3) The name of the proposed district.

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

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

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

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

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

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

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

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

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

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

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

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

(3) The name of the district;

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

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

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

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

☐ 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 in the portion of any county that is part of the proposed district favor the proposal, then the sales tax shall become effective in that portion of the county that is part of the proposed district on the first day of the first calendar quarter immediately following the election. If a majority of the votes cast in the portion of a county that is a part of the proposed district oppose the proposal, then that portion of such county shall not impose the sales tax authorized in this section until after the county governing body has submitted another such sales tax proposal and the proposal is approved by a majority of the qualified voters voting thereon. However, if a sales tax proposal is not approved, the governing body of the county shall not resubmit a proposal to the voters pursuant to this section sooner than twelve months from the date of the last proposal submitted pursuant to this section. If the qualified voters in two or more counties that have contiguous districts approve the sales tax proposal, the districts shall combine to become one district.

7. There is hereby created a board of trustees to administer any district created and the expenditure of revenue generated pursuant to this section consisting of four individuals to represent each county approving the district, as provided in this subsection. The governing body of each county located within the district, upon approval of that county's sales tax proposal, shall appoint four members to the board of trustees; at least one shall be an owner of a nonlodging business located within the taxing district, or their designee, at least one shall be an owner of a lodging facility located within the district, or their designee, and all members shall reside in the district except that one nonlodging business owner,

or their designee, and one lodging facility owner, or their designee, may reside outside the district. Each trustee shall be at least twenty-five years of age and a resident of this state. Of the initial trustees appointed from each county, two shall hold office for two years, and two shall hold office for four years. Trustees appointed after expiration of the initial terms shall be appointed to a four-year term by the governing body of the county the trustee represents, with the initially appointed trustee to remain in office until a successor is appointed, and shall take office upon being appointed. Each trustee may be reappointed. Vacancies shall be filled in the same manner in which the trustee vacating the office was originally appointed. The trustees shall not receive compensation for their services, but may be reimbursed for their actual and necessary expenses. The board shall elect a chair and other officers necessary for its membership. Trustees may be removed if:

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

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

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

(1) To have and use a corporate seal;

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

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

(4) To borrow money and incur indebtedness and evidence the same by certificates, notes, or debentures, to issue bonds and use any one or more lawful funding methods the district may obtain for its purposes at such rates of interest as the district may determine. Any bonds, notes, and other obligations issued or delivered by the district may be secured by mortgage, pledge, or deed of trust of any or all of the property and income of the district. Every issue of such bonds,

notes, or other obligations shall be payable out of property and 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, notes, or other obligations shall be authorized by resolution of the district board, and 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, notes, or other obligations 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 be subject to redemption as such resolution may provide, notwithstanding section 108.170, RSMo. The bonds, notes, or other obligations may be sold at either public or private sale, at such interest rates, and at such price or prices as the district shall determine;

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

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

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

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

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

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

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

9. There is hereby created the "Exhibition Center and Recreational Facility District Sales Tax Trust Fund", which shall consist of all sales tax revenue collected pursuant to this section. The director of revenue shall be custodian of

the trust fund, and moneys in the trust fund shall be used solely for the purposes authorized in this section. Moneys in the trust fund shall be considered nonstate funds pursuant to section 15, article IV, constitution of Missouri. The director of revenue shall invest moneys in the trust fund in the same manner as other funds are invested. Any interest and moneys earned on such investments shall be credited to the trust fund. All sales taxes collected by the director of revenue pursuant to this section on behalf of the district, less one percent for the 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 532.087, RSMo, shall be deposited in the trust fund. The director of revenue shall keep accurate records of the amount of moneys in the trust fund which was collected in the district imposing a sales tax pursuant to this section, and the records shall be open to the inspection of the officers of each district and the general 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 district. The director of revenue may authorize refunds from the amounts in the trust fund and credited to the district for erroneous payments and overpayments made, and may redeem dishonored checks and drafts deposited to the credit of the district.

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

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

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

☐ 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 favor the extension, then the sales tax shall remain in effect at the rate and for the time period approved by the voters. If a sales tax extension is not approved, the district may submit another sales tax proposal as authorized in this section, but the district shall not submit such a proposal to the

voters sooner than twelve months from the date of the last extension submitted.

12. Once the sales tax authorized by this section is abolished or terminated by any means, all funds remaining in the trust fund shall be used solely for the purposes approved in the ballot question authorizing the sales tax. The sales tax shall not be abolished or terminated while the district has any financing or other obligations outstanding; provided that any new financing, debt, or other obligation or any restructuring or refinancing of an existing debt or obligation incurred more than ten years after voter approval of the sales tax provided in this section or more than ten years after any voter approved extension thereof shall not cause the extension of the sales tax provided in this section or cause the final maturity of any financing or other obligations outstanding to be extended. Any funds in the trust fund which are not needed for current expenditures may be invested by the district in the securities described in subdivisions (1) to (12) of subsection 1 of section 30.270, RSMo, or repurchase agreements secured by such securities. If the district abolishes the sales tax, the district shall notify the director of revenue of the action at least ninety days before 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 sales 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 sales tax in the district, the director of revenue shall remit the balance in the account to the district and close the account of the district. The director of revenue shall notify the district of each instance of any amount refunded or any check redeemed from receipts due the district.

13. In the event that the district is dissolved or terminated by any means, the governing bodies of the counties in the district shall appoint a person to act as trustee for the district so dissolved or terminated. Before beginning the discharge of duties, the trustee shall take and subscribe an oath to faithfully discharge the duties of the office, and shall give bond with sufficient security, approved by the governing bodies of the counties, to the use of the dissolved or terminated district, for the faithful discharge of duties. The trustee shall have and exercise all powers necessary to liquidate the district, and upon satisfaction of all remaining obligations of the district, shall pay over to the county treasurer of each county in the district and take receipt for all remaining moneys in amounts based on the ratio the levy of each county bears to the total levy for the district in the previous three years or since the establishment of the district, whichever time period is shorter. Upon payment to the county treasurers, the trustee shall deliver to the clerk of the governing body of any county in the district all books, papers,

records, and deeds belonging to the dissolved district.

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