

SECOND REGULAR SESSION
SENATE COMMITTEE SUBSTITUTE FOR
SENATE BILL NO. 1057
94TH GENERAL ASSEMBLY

Reported from the Committee on Transportation, April 3, 2008, with recommendation that the Senate Committee Substitute do pass.

4696S.03C

TERRY L. SPIELER, Secretary.

AN ACT

To repeal sections 238.202, 238.207, and 238.210, RSMo, and to enact in lieu thereof three new sections relating to transportation development districts.

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

Section A. Sections 238.202, 238.207, and 238.210, RSMo, are repealed
2 and three new sections enacted in lieu thereof, to be known as sections 238.202,
3 238.207, and 238.210, to read as follows:

238.202. 1. As used in sections 238.200 to 238.275, the following terms
2 mean:

- 3 (1) "Board", the board of directors of a district;
- 4 (2) "Commission", the Missouri highways and transportation commission;
- 5 (3) "District", a transportation development district organized under
6 sections 238.200 to 238.275;
- 7 (4) "Local transportation authority", a county, city, town, village, county
8 highway commission, special road district, interstate compact agency, or any local
9 public authority or political subdivision having jurisdiction over any bridge,
10 street, highway, dock, wharf, ferry, lake or river port, airport, railroad, light rail
11 or other transit improvement or service;
- 12 (5) "Project" includes any bridge, street, road, highway, access road,
13 interchange, intersection, signing, signalization, parking lot, bus stop, station,
14 garage, terminal, hangar, shelter, rest area, dock, wharf, lake or river port,
15 airport, railroad, light rail, or other mass transit and any similar or related
16 improvement or infrastructure.

17 2. For the purposes of sections 11(c), 16 and 22 of article X of the

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

18 Constitution of Missouri, section 137.073, RSMo, and as used in sections 238.200
19 to 238.275, the following terms shall have the meanings given:

20 (1) "Approval of the required majority" or "direct voter approval", a simple
21 majority;

22 (2) "Qualified electors", "qualified voters" or "voters"[,]:

23 (a) Within [the] a proposed or established district, **except for a district**
24 **proposed under subsection 1 of section 238.207**, any persons residing
25 therein who have registered to vote pursuant to chapter 115, RSMo[, and]; or

26 (b) **Within a district proposed or established under subsection 1**
27 **of section 238.207 which has no persons residing therein who have**
28 **registered to vote pursuant to chapter 115, RSMo**, the owners of record
29 **of all real property located in the district**, who shall receive one vote per acre,
30 provided that [any] if a registered voter [who also owns property] **subsequent**
31 **to the creation of the district becomes a resident within the district and**
32 **obtains ownership of property within the district, such registered voter**
33 must elect whether to vote as an owner **of real property** or as a registered
34 voter, **which election once made cannot thereafter be changed;**

35 (3) "Registered voters", persons qualified and registered to vote pursuant
36 to chapter 115, RSMo.

238.207. 1. Whenever the creation of a district is desired, not less than
2 fifty registered voters from each county partially or totally within the proposed
3 district may file a petition requesting the creation of a district. However, if no
4 persons eligible to be registered voters reside within the district, the owners of
5 record of all of the real property, except public streets, located within the
6 proposed district may file a petition requesting the creation of a district. The
7 petition shall be filed in the circuit court of any county partially or totally within
8 the proposed district.

9 2. Alternatively, the governing body of any local transportation authority
10 within any county in which a proposed project may be located may file a petition
11 in the circuit court of that county, requesting the creation of a district.

12 3. The proposed district area shall be contiguous and may contain all or
13 any portion of one or more municipalities and counties; provided:

14 (1) Property separated only by public streets, easements or rights-of-way
15 shall be considered contiguous;

16 (2) In the case of a district formed pursuant to a petition filed by the
17 owners of record of all of the real property located within the proposed district,

18 the proposed district area need not contain contiguous properties if:

19 (a) The petition provides that the only funding method for project costs
20 will be a sales tax;

21 (b) The court finds that all of the real property located within the
22 proposed district will benefit by the projects to be undertaken by the district; and

23 (c) Each parcel within the district is within five miles of every other
24 parcel; and

25 (3) In the case of a district created pursuant to subsection 5 of this
26 section, property separated only by public streets, easements, or rights-of-way or
27 connected by a single public street, easement, or right-of-way shall be considered
28 contiguous.

29 4. The petition shall set forth:

30 (1) The name, voting residence and county of residence of each individual
31 petitioner, or, if no persons eligible to be registered voters reside within the
32 proposed district, the name and address of each owner of record of real property
33 located within the proposed district, or shall recite that the petitioner is the
34 governing body of a local transportation authority acting in its official capacity;

35 (2) The name and address of each respondent. Respondents must include
36 the commission and each affected local transportation authority within the
37 proposed district, except a petitioning local transportation authority;

38 (3) A specific description of the proposed district boundaries including a
39 map illustrating such boundaries;

40 (4) A general description of each project proposed to be undertaken by
41 that district, including a description of the approximate location of each project;

42 (5) The estimated project costs and the anticipated revenues to be
43 collected from the project;

44 (6) The name of the proposed district;

45 (7) The number of members of the board of directors of the proposed
46 district, which shall be not less than five or more than fifteen;

47 (8) A statement that the terms of office of initial board members shall be
48 staggered in approximately equal numbers to expire in one, two or three years;

49 (9) If the petition was filed by registered voters or by a governing body,
50 a request that the question be submitted to the qualified voters within the limits
51 of the proposed district whether they will establish a transportation development
52 district to develop a specified project or projects;

53 (10) A proposal for funding the district initially, pursuant to the authority

54 granted in sections 238.200 to 238.275, together with a request that the funding
55 proposal be submitted to the qualified voters within the limits of the proposed
56 district; provided, however, the funding method of special assessments may also
57 be approved as provided in subsection 1 of section 238.230; and

58 (11) A statement that the proposed district shall not be an undue burden
59 on any owner of property within the district and is not unjust or unreasonable.

60 5. (1) As an alternative to the methods described in subsections 1 and 2
61 of this section, if two or more local transportation authorities have adopted
62 resolutions calling for the joint establishment of a district, the governing body of
63 any one such local transportation authority may file a petition in the circuit court
64 of any county in which the proposed project is located requesting the creation of
65 a district; **or, if not less than fifty registered voters from each of two or**
66 **more counties sign a petition calling for the joint establishment of a**
67 **district for the purpose of developing a project that lies in whole or in**
68 **part within those same counties, the petition may be filed in the circuit**
69 **court of any of those counties in which not less than fifty registered**
70 **voters have signed the petition.**

71 (2) The proposed district area shall be contiguous and may contain all or
72 any portion of one or more municipalities and counties. Property separated only
73 by public streets, easements, or rights-of-way or connected by a single public
74 street, easement, or right-of-way shall be considered contiguous.

75 (3) The petition shall set forth:

76 (a) That the petitioner is the governing body of a local transportation
77 authority acting in its official capacity; **or, if the petition was filed by**
78 **obtaining the signatures of not less than fifty registered voters in each**
79 **of two or more counties, it shall set forth the name, voting residence,**
80 **and county of residence of each individual petitioner;**

81 (b) The name of each local transportation authority within the proposed
82 district. The resolution of the governing body of each local transportation
83 authority calling for the joint establishment of the district shall be attached to
84 the petition;

85 (c) The name and address of each respondent. Respondents must include
86 the commission and each affected local transportation authority within the
87 proposed district, except a petitioning local transportation authority;

88 (d) A specific description of the proposed district boundaries including a
89 map illustrating such boundaries;

- 90 (e) A general description of each project proposed to be undertaken by the
91 district, including a description of the approximate location of each project;
- 92 (f) The name of the proposed district;
- 93 (g) The number of members of the board of directors of the proposed
94 district;
- 95 (h) A request that the question be submitted to the qualified voters within
96 the limits of the proposed district whether they will establish a transportation
97 development district to develop the projects described in the petition;
- 98 (i) A proposal for funding the district initially, pursuant to the authority
99 granted in sections 238.200 to 238.275, together with a request that the
100 imposition of the funding proposal be submitted to the qualified voters residing
101 within the limits of the proposed district; provided, however, the funding method
102 of special assessments may also be approved as provided in subsection 1 of
103 section 238.230; and
- 104 (j) A statement that the proposed district shall not be an undue burden
105 on any owner of property within the district and is not unjust or unreasonable.

238.210. 1. Within thirty days after the petition is filed, the circuit court
2 clerk shall serve a copy of the petition on the respondents who shall have thirty
3 days after receipt of service to file an answer stating agreement with or
4 opposition to the creation of the district. If any respondent files its answer
5 opposing the creation of the district, it shall recite legal reasons why the petition
6 is defective, why the proposed district is illegal or unconstitutional, or why the
7 proposed method for funding the district is illegal or unconstitutional. The
8 respondent shall ask the court for a declaratory judgment respecting these
9 issues. The answer of each respondent shall be served on each petitioner and
10 every other respondent named in the petition. Any resident, taxpayer, any other
11 entity, or any local transportation authority within the proposed district may join
12 in or file a petition supporting or answer opposing the creation of the district and
13 seeking a declaratory judgment respecting these same issues within thirty days
14 after the date notice is last published by the circuit clerk.

15 2. The court shall hear the case without a jury. If the court shall
16 thereafter determine the petition is defective or the proposed district is illegal or
17 unconstitutional, or shall be an undue burden on any owner of property within
18 the district or is unjust and unreasonable, it shall enter its declaratory judgment
19 to that effect and shall refuse to make the certifications requested in the
20 pleadings. If the court determines that any proposed funding method is illegal

21 or unconstitutional, it shall enter its judgment striking that funding method in
22 whole or part. If the court determines the petition is not legally defective and the
23 proposed district and method of funding are neither illegal nor unconstitutional,
24 the court shall enter its judgment to that effect. If the petition was filed by
25 registered voters or by a governing body, the court shall then certify the questions
26 regarding district creation, project development, and proposed funding for voter
27 approval. If the petition was filed by a governing body, **or by no less than fifty**
28 **registered voters of two or more counties**, pursuant to subsection 5 of
29 section 238.207, the court shall then certify the single question regarding district
30 creation, project development, and proposed funding for voter approval. If the
31 petition was filed by the owners of record of all of the real property located within
32 the proposed district, the court shall declare the district organized and certify the
33 funding methods stated in the petition for qualified voter approval; provided,
34 however, the funding method of special assessments may also be approved as
35 provided in subsection 1 of section 238.230. In either case, if no objections to the
36 petition are timely filed, the court may make such certifications based upon the
37 pleadings before it without any hearing.

38 3. Any party having filed an answer or petition may appeal the circuit
39 court's order or declaratory judgment in the same manner provided for other
40 appeals.

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