

FIRST REGULAR SESSION

# SENATE BILL NO. 215

95TH GENERAL ASSEMBLY

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INTRODUCED BY SENATOR SHIELDS.

Read 1st time January 20, 2009, and ordered printed.

TERRY L. SPIELER, Secretary.

0321S.031

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## AN ACT

To repeal sections 68.025, 68.035, 68.040, and 68.070, RSMo, and to enact in lieu thereof seventeen new sections relating to port authorities.

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

Section A. Sections 68.025, 68.035, 68.040, and 68.070, RSMo, are  
2 repealed and seventeen new sections enacted in lieu thereof, to be known as  
3 sections 68.025, 68.035, 68.040, 68.070, 68.200, 68.205, 68.210, 68.215, 68.220,  
4 68.225, 68.230, 68.235, 68.240, 68.245, 68.250, 68.255, and 68.260, to read as  
5 follows:

68.025. 1. Every local and regional port authority, approved as a political  
2 subdivision of the state, shall have the following powers to:

3 (1) Confer with any similar body created under laws of this or any other  
4 state for the purpose of adopting a comprehensive plan for the future  
5 development and improvement of its port districts;

6 (2) Consider and adopt detailed and comprehensive plans for future  
7 development and improvement of its port districts and to coordinate such plans  
8 with regional and state programs;

9 (3) **Establish a port improvement district in accordance with this**  
10 **chapter;**

11 (4) **Carry out any of the projects enumerated in subdivision (16)**  
12 **of section 68.205;**

13 (5) **Within the boundaries of any established port improvement**

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

14 **district, to levy either a sales and use tax or a real property tax, or**  
15 **both, for the purposes of paying any part of the cost of a project**  
16 **benefiting property in a port improvement district;**

17 **(6) Pledge both revenues generated by any port improvement**  
18 **district and any other port authority revenue source to the repayment**  
19 **of any outstanding obligations;**

20 **(7) Either jointly with a similar body, or separately, recommend to the**  
21 **proper departments of the government of the United States, or any state or**  
22 **subdivision thereof, or to any other body, the carrying out of any public**  
23 **improvement for the benefit of its port districts;**

24 **[(4)] (8) Provide for membership in any official, industrial, commercial,**  
25 **or trade association, or any other organization concerned with such purposes, for**  
26 **receptions of officials or others as may contribute to the advancement of its port**  
27 **districts and any industrial development therein, and for such other public**  
28 **relations activities as will promote the same, and such activities shall be**  
29 **considered a public purpose;**

30 **[(5)] (9) Represent its port districts before all federal, state and local**  
31 **agencies;**

32 **[(6)] (10) Cooperate with other public agencies and with industry,**  
33 **business, and labor in port district improvement matters;**

34 **[(7)] (11) Enter into any agreement with any other states, agencies,**  
35 **authorities, commissions, municipalities, persons, corporations, or the United**  
36 **States, to effect any of the provisions contained in this chapter;**

37 **[(8)] (12) Approve the construction of all wharves, piers, bulkheads,**  
38 **jetties, or other structures;**

39 **[(9)] (13) Prevent or remove, or cause to be removed, obstructions in**  
40 **harbor areas, including the removal of wrecks, wharves, piers, bulkheads,**  
41 **derelicts, jetties or other structures endangering the health and general welfare**  
42 **of the port districts; in case of the sinking of a facility from any cause, such**  
43 **facility or vessel shall be removed from the harbor at the expense of its owner or**  
44 **agent so that it shall not obstruct the harbor;**

45 **[(10)] (14) Recommend the relocation, change, or removal of dock lines**  
46 **and shore or harbor lines;**

47 **[(11)] (15) Acquire, own, construct, redevelop, lease, maintain, and**  
48 **conduct land reclamation and resource recovery [with respect to unimproved**  
49 **land], including the removal of sand, rock, or gravel, residential**

50 developments, commercial developments, mixed-use developments, recreational  
51 facilities, industrial parks, industrial facilities, and terminals, terminal facilities,  
52 warehouses and any other type port facility;

53       [(12)] **(16)** Acquire, own, lease, sell or otherwise dispose of interest in  
54 and to real property and improvements situate thereon and in personal property  
55 necessary to fulfill the purposes of the port authority;

56       [(13)] **(17)** Acquire rights-of-way and property of any kind or nature  
57 within its port districts necessary for its purposes. Every port authority shall  
58 have the right and power to acquire the same by purchase, negotiation, or by  
59 condemnation, and should it elect to exercise the right of eminent domain,  
60 condemnation proceedings shall be maintained by and in the name of the port  
61 authority, and it may proceed in the manner provided by the laws of this state for  
62 any county or municipality. The power of eminent domain shall not apply to  
63 property actively being used in relation to or in conjunction with river trade or  
64 commerce, unless such use is by a port authority pursuant to a lease in which  
65 event the power of eminent domain shall apply;

66       [(14)] **(18)** Contract and be contracted with, and to sue and be sued;

67       [(15)] **(19)** Accept gifts, grants, loans or contributions from the United  
68 States of America, the state of Missouri, political subdivisions, municipalities,  
69 foundations, other public or private agencies, individual, partnership or  
70 corporations;

71       [(16)] **(20)** Employ such managerial, engineering, legal, technical,  
72 clerical, accounting, advertising, stenographic, and other assistance as it may  
73 deem advisable. The port authority may also contract with independent  
74 contractors for any of the foregoing assistance;

75       [(17)] **(21)** Improve navigable and nonnavigable areas as regulated by  
76 federal statute;

77       [(18)] **(22)** Disburse funds for its lawful activities and fix salaries and  
78 wages of its employees; and

79       [(19)] **(23)** Adopt, alter or repeal its own bylaws, rules and regulations  
80 governing the manner in which its business may be transacted; however, said  
81 bylaws, rules and regulations shall not exceed the powers granted to the port  
82 authority by this chapter.

83       2. In implementing its powers, the port authority shall have the power to  
84 enter into agreements with private operators or public entities for the joint  
85 development, redevelopment, and reclamation of property within a port district

86 or for other uses to fulfill the purposes of the port authority.

68.035. 1. The state may make grants to a state port fund, as  
2 appropriated by the general assembly, to be allocated by the department of  
3 transportation to local port authorities or regional port coordinating  
4 agencies. These grants, administered on a nonmatching basis, could be used for  
5 managerial, engineering, legal, research, promotion, planning and any other  
6 expenses.

7 2. In addition the state may make capital improvement matching grants  
8 contributing eighty percent of the funds and local port authorities contributing  
9 twenty percent of the funds for specific [projects] **undertakings** of port  
10 development such as land acquisitions, construction, terminal facility  
11 development, **port improvement projects**, and other related port  
12 facilities. **Notwithstanding the foregoing, any matching grants awarded**  
13 **by the Missouri highways and transportation commission under the**  
14 **Port Capital Improvement Program shall be transportation related.**

15 3. The grants provided herein may be used as the local share in applying  
16 for other grant programs.

68.040. 1. Every local and regional port authority, approved as a political  
2 subdivision of the state, may from time to time issue its negotiable revenue bonds  
3 or notes in such principal amounts as, in its opinion, shall be necessary to provide  
4 sufficient funds for achieving its purposes, including the construction of port  
5 facilities **and the financing of port improvement projects**; establish  
6 reserves to secure such bonds and notes; and make other expenditures, incident  
7 and necessary to carry out its purposes and powers.

8 2. This state shall not be liable on any notes or bonds of any port  
9 authority. Any such notes or bonds shall not be a debt of the state and shall  
10 contain on the faces thereof a statement to such effect.

11 3. No commissioner of any port authority or any authorized person  
12 executing port authority notes or bonds shall be liable personally on said notes  
13 or bonds or shall be subject to any personal liability or accountability by reason  
14 of the issuance thereof.

15 4. The notes and bonds of every port authority are securities in which all  
16 public officers and bodies of this state and all political subdivisions and  
17 municipalities, all insurance companies and associations, and other persons  
18 carrying on an insurance business, all banks, trust companies, saving  
19 associations, savings and loan associations, credit unions, investment companies,

20 all administrators, guardians, executors, trustees, and other fiduciaries, and all  
21 other persons whatsoever, who now or may hereafter, be authorized to invest in  
22 notes and bonds or other obligations of this state, may properly and legally invest  
23 funds, including capital, in their control or belonging to them.

24 5. No port authority shall be required to pay any taxes or any  
25 assessments whatsoever to this state or to any political subdivisions, municipality  
26 or other governmental agency of this state. The notes and bonds of every port  
27 authority and the income therefrom shall, at all times, be exempt from any taxes  
28 and any assessments, except for death and gift taxes and taxes on transfers.

29 6. Every port authority shall have the powers and be governed by the  
30 procedures now or hereafter conferred upon or applicable to the environmental  
31 improvement authority, chapter 260, RSMo, relating to the manner of issuance  
32 of revenue bonds and notes, and the port authority shall exercise all such powers  
33 and adhere to all such procedures insofar as they are consistent with the  
34 necessary and proper undertaking of its purposes.

68.070. [If, at any time] **Provided a local or regional port authority**  
2 **has no outstanding obligations**, the legislative body or county commission of  
3 a city or county, in which a local port authority is situated, votes, by majority, to  
4 dissolve said port authority, the local port authority shall be dissolved effective  
5 the date of approval of the dissolution by the highways and transportation  
6 commission of the state. If, at any time, all of the legislative bodies or county  
7 commissions of members of a regional port authority vote, by majority, to dissolve  
8 the regional port authority, it shall be dissolved effective the date of the approval  
9 of dissolution by the highways and transportation commission of the state. In the  
10 event of dissolution of a local or regional port authority, all funds and other  
11 assets shall be distributed among the cities and counties, who were members, on  
12 a pro rata basis.

**68.200. Sections 68.200 to 68.260 shall be known and may be cited**  
2 **as the "Port Improvement District Act."**

**68.205. As used in sections 68.200 to 68.260, unless the context**  
2 **clearly requires otherwise, the following terms shall mean:**

3 (1) "Act", the port improvement district act, sections 68.200 to  
4 68.260;

5 (2) "Approval", for purposes of elections pursuant to this act, a  
6 simple majority of those qualified voters casting votes in any election;

7 (3) "Board", the board of port authority commissioners for the

8 particular port authority that desires to establish or has established a  
9 district;

10 (4) "Director of revenue", the director of the department of  
11 revenue of the state of Missouri;

12 (5) "District" or "port improvement district", an area designated  
13 by the port authority which is located within its port district  
14 boundaries at the time of establishment;

15 (6) "Disposal of solid waste or sewage", the entire process of  
16 storage, collection, transportation, processing, and disposal of solid  
17 wastes or sewage;

18 (7) "Election authority", the election authority having  
19 jurisdiction over the area in which the boundaries of the district are  
20 located under chapter 115, RSMo;

21 (8) "Energy conservation", the reduction of energy consumption;

22 (9) "Energy efficiency", the increased productivity or  
23 effectiveness of the use of energy resources, the reduction of energy  
24 consumption, or the use of renewable energy sources;

25 (10) "Obligations", revenue bonds and notes issued by a port  
26 authority and any obligations for the repayment of any money obtained  
27 by a port authority from any public or private source along with any  
28 associated financing costs, including, but not limited to, the costs of  
29 issuance, capitalized interest, and debt service;

30 (11) "Owner", the individual or individuals or entity or entities  
31 who own a fee interest in real property that is located within the  
32 boundaries of a district based upon the recorded real estate records of  
33 the county recorder, or the city recorder of deeds if the district is  
34 located in a city not within a county, as of the thirtieth day prior to any  
35 action;

36 (12) "Petition", a petition to establish a port improvement district  
37 within the port district boundaries or a petition to make a substantial  
38 change to an existing district;

39 (13) "Pollution", the existence of any noxious substance in the air  
40 or waters or on the lands of the state in sufficient quantity and of such  
41 amounts, characteristics, and duration as to injure or harm the public  
42 health or welfare or animal life or property;

43 (14) "Port authority", a political subdivision established pursuant  
44 to this chapter;

45           (15) "Port district boundaries", the boundaries of any port  
46 authority on file with the clerk of the county commission, city clerk, or  
47 clerk of the legislative or governing body of the county as applicable,  
48 which became effective upon approval by the highways and  
49 transportation commission of the state of Missouri;

50           (16) "Project" or "port improvement project", with respect to any  
51 property within a port improvement district, or benefiting property  
52 within a port improvement district:

53           (a) Providing for, or contracting for the provision of,  
54 environmental cleanup, including the disposal of solid waste, services  
55 to brownfields, or other polluted real property;

56           (b) Providing for, or contracting for the provision of, energy  
57 conservation or increased energy efficiency within any building,  
58 structure, or facility;

59           (c) Providing for, or contracting for the provision of, wetland  
60 creation, preservation, or relocation;

61           (d) The construction of any building, structure, or facility  
62 determined by the port authority as essential in developing energy  
63 resources, preventing, reducing, or eliminating pollution, or providing  
64 water facilities or the disposal of solid waste;

65           (e) Modifications to, or the relocation of, any existing building,  
66 structure, or facility that has been acquired or constructed, or which  
67 is to be acquired or constructed for the purpose of developing energy  
68 resources, preventing, reducing, or eliminating pollution, or providing  
69 water facilities or the disposal of solid waste;

70           (f) The acquisition of real property determined by the port  
71 authority to be significant in, or in the furtherance of, the history,  
72 architecture, archeology, or culture of the United States, the state of  
73 Missouri, or its political subdivisions;

74           (g) The operation, maintenance, repair, rehabilitation, or  
75 reconstruction of any existing public or private building, structure, or  
76 facility determined by the port authority to be significant in, or in the  
77 furtherance of, the history, architecture, archeology, or culture of the  
78 United States, the state of Missouri, or its political subdivisions;

79           (h) The construction of any new building, structure, or facility  
80 that is determined by the port authority to be significant in, or in the  
81 furtherance of, the history, architecture, archeology, or culture of the

82 United States, the state of Missouri, or its political subdivisions;

83 (17) "Qualified project costs", include any and all reasonable  
84 costs incurred or estimated to be incurred by a port authority, or a  
85 person or entity authorized by a port authority, in furtherance of a port  
86 improvement project, which costs may include, but are not limited to:

87 (a) Costs of studies, plans, surveys, and specifications;

88 (b) Professional service costs, including, but not limited to,  
89 architectural, engineering, legal, research, marketing, financial,  
90 planning, consulting, and special services, including professional  
91 service costs necessary or incident to determining the feasibility or  
92 practicability of any project and carrying out the same;

93 (c) Administrative fees and costs of a port authority in carrying  
94 out any of the purposes of this act;

95 (d) Property assembly costs, including, but not limited to,  
96 acquisition of land and other property and improvements, real or  
97 personal, or rights or interests therein, demolition of buildings and  
98 structures, and the clearing or grading of land, machinery, and  
99 equipment relating to any project, including the cost of demolishing or  
100 removing any existing structures;

101 (e) Costs of operating, rehabilitating, reconstructing,  
102 maintaining, and repairing existing buildings, structures, or fixtures;

103 (f) Costs of constructing new buildings, structures, or fixtures;

104 (g) Costs of constructing, operating, rehabilitating,  
105 reconstructing, maintaining, and repairing public works or  
106 improvements;

107 (h) Financing costs, including, but not limited to, all necessary  
108 and incidental expenses related to the port authority's issuance of  
109 obligations, which may include capitalized interest on any such  
110 obligations and reasonable reserves related to any such obligations;

111 (i) All or a portion of the port authority's capital costs resulting  
112 from a port improvement project necessarily incurred or to be incurred  
113 in furtherance of a port improvement project, to the extent the port  
114 authority accepts and approves such costs; and

115 (j) Relocation costs, to the extent that a port authority  
116 determines that relocation costs shall be paid, or are required to be  
117 paid, by federal or state law;

118 (18) "Qualified voters", for the purposes of an election for the

119 approval of a real property tax or a sales and use tax:

120 (a) Registered voters residing within the district; or

121 (b) If no registered voters reside within the district, the owners  
122 of one or more parcels of real property within the district, which would  
123 be subject to such real property taxes or sales and use taxes, as  
124 applicable, based upon the recorded real estate records of the county  
125 recorder, or the city recorder of deeds if the district is located in a city  
126 not within a county, as of the thirtieth day prior to the date of the  
127 applicable election;

128 (19) "Registered voters", persons who reside within the district  
129 and who are qualified and registered to vote pursuant to chapter 115,  
130 RSMo, as determined by the election authority as of the thirtieth day  
131 prior to the date of the applicable election;

132 (20) "Respondent", the Missouri highways and transportation  
133 commission, each property owner within the proposed district, the  
134 municipality or municipalities within which the proposed district is  
135 located, the county or counties within which the proposed district is  
136 located, and any other political subdivision within the boundaries of  
137 the proposed port improvement district, except the petitioning port  
138 authority;

139 (21) "Revenues", all rents, revenues from any levied real property  
140 tax and sales and use tax, charges and other income received by a port  
141 authority in connection with any project, including any gift, grant,  
142 loan, or appropriation received by the port authority with respect  
143 thereto;

144 (22) "Substantial changes", with respect to an established port  
145 improvement district, the addition or removal of real property to or  
146 from the port improvement district and any changes to the approved  
147 district funding mechanism; and

148 (23) "Water facilities", any facilities for the furnishing and  
149 treatment of water for industrial, commercial, agricultural, or  
150 community purposes including, but not limited to, wells, reservoirs,  
151 dams, pumping stations, water lines, sewer lines, treatment plants,  
152 stabilization ponds, storm sewers, storm water detention and retention  
153 facilities, and related equipment and machinery.

68.210. 1. A port authority may establish one or more port  
2 improvement districts within its port district boundaries for the

3 purpose of funding qualified project costs associated with an approved  
4 port improvement project. In order to form a district or to make  
5 substantial changes to an existing district, the board must:

6 (1) Draft a petition in accordance with subsection 2 of this  
7 section;

8 (2) Hold a public hearing in accordance with section 68.215;

9 (3) Subsequent to the public hearing, approve by resolution the  
10 draft petition containing any approved changes and amendments  
11 deemed necessary or desirable by a majority of the board members;

12 (4) File the approved draft petition in the circuit court of the  
13 county where the port improvement district is located, requesting the  
14 creation of a port improvement district in accordance with sections  
15 68.200 to 68.260; and

16 (5) Within thirty days of the circuit court's certification of the  
17 petition, and establishment of the district, file a copy of the board's  
18 resolution approving the petition, the certified petition, and the circuit  
19 court judgment certifying the petition and establishing the district with  
20 the Missouri highways and transportation commission.

21 2. A petition is proper for consideration and approval by the  
22 board and the circuit court if, at the time of such approval, it contains  
23 the following information:

24 (1) The legal description of the proposed district, including a  
25 map illustrating the legal boundaries. The proposed district must be  
26 contiguous and may contain all or any portion of one or more  
27 municipalities and counties. Property separated only by public streets,  
28 easements or rights-of-way, or connected by a single public street,  
29 easement, or right-of-way shall be considered contiguous;

30 (2) A district name designation which shall be set out in the  
31 following format:

32 (a) The name of the Missouri county or municipality in which the  
33 port district boundaries are filed;

34 (b) The words "port improvement district"; and

35 (c) The district designation number, beginning at 1 for the first  
36 district formed by that specific port authority, and progressing  
37 consecutively upward, irrespective of the year established;

38 (3) A description of the proposed project or projects for which  
39 the district is being formed, and the estimated qualified project costs

40 of such projects;

41 (4) The maximum rate or rates and duration of any proposed real  
42 property tax or sales and use tax, or both, as applicable, needed to fund  
43 the project;

44 (5) The estimated revenues projected to be generated by any  
45 such tax or taxes;

46 (6) The name and address of each respondent;

47 (7) A statement that the proposed district shall not be an undue  
48 burden on any owner of property within the district and is not unjust  
49 or unreasonable;

50 (8) A request that the circuit court certify the projects pursuant  
51 to the act, approve the proposed real property tax or sales and use tax,  
52 or both, as applicable, and establish the district.

68.215. 1. Not more than ten days prior to the submission of the  
2 petition to the circuit court, the port authority shall hold or cause to  
3 be held a public hearing on the proposed project or projects, proposed  
4 real property tax or sales and use tax, or both, as applicable, and the  
5 establishment of the proposed district and shall give notice of the  
6 public hearing in the manner provided in subsection 3 of this  
7 section. All reasonable protests, objections, and endorsements shall be  
8 heard at the public hearing.

9 2. The public hearing may be continued to another date without  
10 further notice other than a motion to be entered on the official port  
11 authority meeting minutes fixing the date, time, and place of the  
12 continuance of the public hearing.

13 3. Notice shall be provided by both publication and  
14 mailing. Notice by publication shall be given by publication in a  
15 newspaper of general circulation within the municipality or county in  
16 which the port authority is located at least once not more than fifteen,  
17 but not less than ten, days prior to the date of the public  
18 hearing. Notice by mail shall be given not more than thirty, but not  
19 less than twenty, days prior to the date of the public hearing by  
20 sending the notice via registered or certified United States mail with  
21 a return receipt attached to the address of record of each owner within  
22 the boundaries of the proposed district. The published and mailed  
23 notices shall include the following:

24 (1) The date, time, and place of the public hearing;

25           (2) A statement that a petition for the establishment of a district  
26 has been drafted for public hearing by the board;

27           (3) The boundaries of the proposed district by street location, or  
28 other readily identifiable means if no street location exists, and a map  
29 illustrating the proposed boundaries;

30           (4) A brief description of the projects proposed to be undertaken,  
31 the estimated cost thereof, and the proposed method of financing such  
32 costs by a real property tax or sales and use tax, or both, as applicable;

33           (5) A statement that a copy of the petition is available for review  
34 at the office of the port authority during regular business hours;

35           (6) The address of the port authority's office; and

36           (7) A statement that all interested persons shall be given an  
37 opportunity to be heard at the public hearing.

68.220. 1. Within thirty days after the petition is filed, the circuit  
2 court clerk shall serve a copy of the petition on the respondents who  
3 shall have thirty days after receipt of service to file an answer stating  
4 agreement with or opposition to the creation of the district. If any  
5 respondent files its answer opposing the creation of the district, it shall  
6 recite legal reasons why the petition is defective, why the proposed  
7 district is illegal or unconstitutional, or why the proposed method for  
8 funding the district is illegal or unconstitutional. The respondent shall  
9 ask the court for a declaratory judgment respecting these issues. The  
10 answer of each respondent shall be served on each petitioner and every  
11 other respondent named in the petition. Any resident or taxpayer  
12 within the proposed district not qualifying as a respondent may join in  
13 or file a petition supporting or answer opposing the creation of the  
14 district and seeking a declaratory judgment respecting these same  
15 issues within thirty days after the date notice is last published by the  
16 circuit clerk pursuant to section 68.225.

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

25 the court determines the petition is not legally defective and the  
26 proposed district and method of funding are neither illegal nor  
27 unconstitutional, the court shall enter its judgment to that effect. The  
28 court shall then certify the single question regarding the proposed real  
29 property tax or sales and use tax, or both, as applicable, needed to fund  
30 the project for voter approval. If no objections to the petition are  
31 timely filed, the court may make such certifications based upon the  
32 pleadings before it without any hearing.

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

68.225. The circuit court clerk in whose office the petition was  
2 filed shall give notice to the public by causing one or more newspapers  
3 of general circulation serving the counties or portions thereof  
4 contained in the proposed district to publish once a week for four  
5 consecutive weeks a notice substantially in the following form:

6 NOTICE OF PETITION TO CREATE A PORT IMPROVEMENT

7 DISTRICT

8 Notice is hereby given to all persons residing or owning property in  
9 ..... (here specifically describe the proposed  
10 district boundaries), within the state of Missouri, that a petition has  
11 been filed asking that a port improvement district by the name of  
12 "..... Port District No. ...." be formed for the purpose of  
13 developing the following projects: (here summarize the proposed  
14 project or projects). A copy of this petition is on file and available at  
15 the office of the clerk of the circuit court of ..... County,  
16 located at ....., Missouri. You are notified to join in  
17 or file your own petition supporting or answer opposing the creation  
18 of the port improvement district and requesting a declaratory  
19 judgment, as required by law, no later than the ..... day of  
20 ....., 20..... You may show cause, if any, why such petition is  
21 defective or proposed port improvement district or its funding method,  
22 as set forth in the petition, is illegal or unconstitutional and should not  
23 be approved as directed by this court.

24 .....

25 Clerk of the Circuit Court of ..... County

68.230. 1. Upon the port authority's own initiative, and after

2 proper notice being provided and a public hearing being conducted in  
3 accordance with subsection 2 of this section, any district may be  
4 terminated by a resolution of the board, provided that there are no  
5 outstanding obligations secured in any way by district revenues  
6 produced from such district. A copy of such resolution shall be filed  
7 with the Missouri highways and transportation commission within  
8 thirty days of its passage.

9       2. The public hearing required by this section shall be held and  
10 notice of such public hearing shall be given in the manner set forth in  
11 section 68.215. The notice shall contain the following information:

12       (1) The date, time, and place of the public hearing;

13       (2) A statement that the port authority proposes a resolution  
14 terminating the district; and

15       (3) A statement that all interested parties will be given an  
16 opportunity to be heard.

17       3. Notwithstanding the requirements of this section, if the port  
18 authority that has formed the district is dissolved in accordance with  
19 this chapter, the district shall automatically be terminated, and any  
20 taxes levied shall simultaneously be repealed, except that this  
21 subsection shall not apply in such instance when a local port authority  
22 is dissolved pursuant to subsection 6 of section 68.060 in order to  
23 consolidate into a regional port authority.

68.235. 1. For the purposes of providing funds to pay all, or any  
2 portion of, the qualified project costs associated with any approved  
3 project, subsequent to the establishment of a district pursuant to this  
4 act, and subsequent to the circuit court's certification of a question  
5 regarding any proposed real property tax needed to fund a project, a  
6 port authority may levy by resolution a tax upon real property within  
7 the boundaries of the district; provided however, no such resolution  
8 shall be final nor shall it take effect until the qualified voters approve,  
9 by mail-in ballot election conducted in accordance with section 68.255,  
10 the circuit court's certified question regarding such proposed real  
11 property tax. If a majority of the votes cast by the qualified voters  
12 voting on the proposed real property tax are in favor of the tax, then  
13 the resolution shall become effective. If a majority of the votes cast by  
14 the qualified voters voting are opposed to the real property tax, then  
15 the resolution seeking to levy the real property tax shall be deemed to

16 be null and void on the date on which the election may no longer be  
17 challenged pursuant to section 68.255. The port authority may levy a  
18 real property tax rate lower than the tax rate ceiling approved by the  
19 qualified voters pursuant to subsection 1 of this section and may, by  
20 resolution, increase that lowered tax rate to a level not exceeding the  
21 tax rate ceiling without approval of the qualified voters.

22 2. The ballot shall be substantially in the following form:

23 "Shall the ..... (insert name of district)  
24 impose a real property tax upon (all real property) within the district  
25 at a rate of not more than ..... (insert amount) dollars per  
26 hundred dollars assessed valuation for a period of ..... (insert  
27 number) years from the date on which such tax is first imposed for the  
28 purpose of providing revenue for ..... (insert general  
29 description of project or projects) in the district?

30 ☐ YES ☐ NO

31 If you are in favor of the question, place an "X" in the box opposite  
32 "YES". If you are opposed to the question, place an "X" in the box  
33 opposite "NO".

34 3. A port authority may repeal or amend by resolution any real  
35 property tax imposed pursuant to this section before the expiration  
36 date of such real property tax unless the repeal or amendment of such  
37 real property tax will impair the port authority's ability to repay any  
38 obligations the port authority has incurred to pay any part of the cost  
39 of a port improvement project.

68.240. 1. The county collector of each county in which the  
2 district is located, or the collector for the city in which the district is  
3 located if the district is located in a city not within a county, shall  
4 collect the real property tax made upon all real property within that  
5 county and district, in the same manner as other real property taxes  
6 are collected.

7 2. Every county or municipal collector and treasurer having  
8 collected or received district real property taxes shall, on or before the  
9 fifteenth day of each month and after deducting the reasonable and  
10 actual cost of such collection but not to exceed one percent of the total  
11 amount collected, remit to the port authority the amount collected or  
12 received by the port authority prior to the first day of such

13 month. Upon receipt of such money, the port authority shall execute  
14 a receipt therefor, which shall be forwarded or delivered to the county  
15 collector or city treasurer who collected such money. The port  
16 authority shall deposit such sums which are designated for a specific  
17 project into a special trust fund to be expended solely for such purpose,  
18 or to the port authority treasury if such sums are not designated. The  
19 county or municipal collector or treasurer, and port authority shall  
20 make final settlement of the port authority account and costs owing,  
21 not less than once each year, if necessary.

22 3. Upon the expiration of any real property tax adopted pursuant  
23 to this section which is designated for a specific project, all funds  
24 remaining in the special trust fund shall continue to be used solely for  
25 the specific purpose designated in the ballot adopted by the qualified  
26 voters. Any funds in such special trust fund which are not needed for  
27 current expenditures may be invested by the port authority pursuant  
28 to applicable laws relating to the investment of other port authority  
29 funds and the port authority may use such funds for other approved  
30 port improvement projects.

68.245. 1. For the purposes of providing funds to pay all, or any  
2 portion of, the qualified project costs associated with any approved  
3 project, subsequent to the establishment of a district pursuant to this  
4 act, and subsequent to the circuit court's certification of a question  
5 regarding any proposed sales and use tax needed to fund a project, a  
6 port authority may levy by resolution a district wide sales and use tax  
7 on all retail sales made in such district which are subject to taxation  
8 pursuant to sections 144.010 to 144.525, RSMo, except sales of motor  
9 vehicles, trailers, boats or outboard motors, and sales to or from public  
10 utilities. Any sales and use tax imposed pursuant to this section may  
11 be imposed in increments of one-eighth of one percent, up to a  
12 maximum of one percent; except that, no resolution adopted pursuant  
13 to this section shall be final nor shall it take effect until the qualified  
14 voters approve, by mail-in ballot election conducted in accordance with  
15 section 68.250, the circuit court's certified question regarding such  
16 proposed sales and use tax. If a majority of the votes cast by the  
17 qualified voters on the proposed sales and use tax are in favor of the  
18 sales and use tax, then the resolution shall become effective. If a  
19 majority of the votes cast by the qualified voters are opposed to the

20 sales and use tax, then the resolution seeking to levy the sales and use  
21 tax shall be deemed null and void on the date on which the election  
22 may no longer be challenged pursuant to section 68.255.

23 2. The ballot shall be substantially in the following form:

24 "Shall the ..... (insert name of district)  
25 impose a district wide sales and use tax at the maximum rate of  
26 ..... (insert amount) for a period of ..... (insert number) years  
27 from the date on which such tax is first imposed for the purpose of  
28 providing revenue for ..... (insert general  
29 description of project or projects)?

30 ☐ YES ☐ NO

31 If you are in favor of the question, place an "X" in the box opposite  
32 "YES". If you are opposed to the question, place an "X" in the box  
33 opposite "NO".

34 3. Within ten days after the qualified voters have approved the  
35 imposition of the sales and use tax, the port authority shall, in  
36 accordance with section 32.087, RSMo, notify the director of  
37 revenue. The sales and use tax authorized by this section shall become  
38 effective on the first day of the second calendar quarter after the  
39 director of revenue receives notice of the adoption of such sales and  
40 use tax.

41 4. The director of revenue shall collect any sales and use tax  
42 adopted pursuant to this section, pursuant to section 32.087, RSMo.

43 5. In each district in which a sales and use tax is imposed  
44 pursuant to this section, every retailer shall add such additional tax  
45 imposed by the port authority to such retailer's sale price, and when so  
46 added such tax shall constitute a part of the purchase price, shall be a  
47 debt of the purchaser to the retailer until paid and shall be recoverable  
48 at law in the same manner as the purchase price.

49 6. The penalties provided in sections 144.010 to 144.525, RSMo,  
50 shall apply to violations of this section.

51 7. All revenue received by the port authority from a sales and  
52 use tax imposed pursuant to this section which is designated for a  
53 specific project shall be deposited into a special trust fund to be  
54 expended solely for such purpose, or to the port authority's treasury if  
55 such sums are not designated. Upon the expiration of any sales and use

56 tax adopted pursuant to this section, all funds remaining in the special  
57 trust fund shall continue to be used solely for the specific purpose  
58 designated in the ballot adopted by the qualified voters. Any funds in  
59 such special trust fund which are not needed for current expenditures  
60 may be invested by the port authority pursuant to applicable laws  
61 relating to the investment of other port authority funds and the port  
62 authority may use such funds for other approved port improvement  
63 projects.

64 8. A port authority may repeal by resolution any sales and use  
65 tax imposed pursuant to this section before the expiration date of such  
66 sales and use tax unless the repeal of such sales and use tax will impair  
67 the port authority's ability to repay, or unless the sales and use tax in  
68 any way secure any outstanding obligations the port authority has  
69 incurred to pay any part of the qualified project costs of any approved  
70 port improvement project.

68.250. 1. Notwithstanding the provisions of chapter 115, RSMo,  
2 except the provisions of section 115.125, RSMo, when applicable, an  
3 election for any proposed real property tax or proposed sales and use  
4 tax, or both, within a district pursuant to this act shall be conducted in  
5 accordance with the provisions of this section.

6 2. After the board has passed a resolution approving the levy of  
7 a real property tax or a sales and use tax, or both, the board shall  
8 provide written notice of such resolution, along with the circuit court's  
9 certified question regarding the real property tax or the sales and use  
10 tax, or both, as applicable, to the election authority. The board shall  
11 be entitled to repeal or amend such resolution provided that written  
12 notice of such repeal or amendment is delivered to the election  
13 authority prior to the date that the election authority mails the ballots  
14 to the qualified voters.

15 3. Upon receipt of written notice of a port authority's resolution,  
16 along with the circuit court's certified question, for the levy of a real  
17 property tax or a sales and use tax, or both, the election authority shall:

18 (1) Specify a date upon which the election shall occur, which  
19 date shall be a Tuesday and shall be, unless otherwise approved by the  
20 board, and election authority and applicable circuit court pursuant to  
21 section 115.125, RSMo, not earlier than the tenth Tuesday, and not later  
22 than the fifteenth Tuesday, after the date the board passes the

23 resolution and shall not be on the same day as an election conducted  
24 pursuant to the provisions of chapter 115, RSMo;

25 (2) Publish notice of the election in a newspaper of general  
26 circulation within the municipality two times. The first publication  
27 date shall be not more than forty-five, but not less than thirty-five, days  
28 prior to the date of the election and the second publication date shall  
29 be not more than twenty, and not less than ten, days prior to the date  
30 of the election. The published notice shall include, but not be limited  
31 to, the following information:

32 (a) The name and general boundaries of the district;

33 (b) The type of tax proposed (real property tax or sales and use  
34 tax or both), its rate or rates, and its purpose or purposes;

35 (c) The date the ballots for the election shall be mailed to  
36 qualified voters;

37 (d) The date of the election;

38 (e) The applicable definition of qualified voters;

39 (f) A statement that persons residing in the district shall register  
40 to vote with the election authority on or before the thirtieth day prior  
41 to the date of the election in order to be a qualified voter for purposes  
42 of the election;

43 (g) A statement that the ballot must be returned to the election  
44 authority's office in person, or by depositing the ballot in the United  
45 States mail addressed to the election authority's office and postmarked,  
46 not later than the date of the election; and

47 (h) A statement that any qualified voter that did not receive a  
48 ballot in the mail or lost the ballot received in the mail may pick up a  
49 mail-in ballot at the election authority's office, specifying the dates and  
50 time such ballot will be available and the location of the election  
51 authority's office;

52 (3) The election authority shall mail the ballot, a notice  
53 containing substantially the same information as the published notice  
54 and a return addressed envelope directed to the election authority's  
55 office with a sworn affidavit on the reverse side of such envelope for  
56 the qualified voter's signature, to each qualified voter not more than  
57 fifteen days and not less than ten days prior to the date of the  
58 election. For purposes of mailing ballots to real property owners, only  
59 one ballot shall be mailed per capita at the address shown on the

60 official, or recorded, real estate records of the county recorder, or the  
61 city recorder of deeds if the district is located in a city not within a  
62 county, as of the thirtieth day prior to the date of the election. Such  
63 affidavit shall be in substantially the following form:

64 **FOR REGISTERED VOTERS:**

65 I hereby declare under penalties of perjury that I reside in the  
66 ..... Port Improvement District No. .... (insert  
67 name of district) and I am a registered voter and qualified to vote in  
68 this election.

69 .....

70 **Qualified Voter's Signature**

71 .....

72 **Printed Name of Qualified Voter**

73 **FOR REAL PROPERTY OWNERS:**

74 I hereby declare under penalty of perjury that I am the owner of  
75 real property in the ..... Port Improvement District No.  
76 ..... (insert name of district) and qualified to vote in this election,  
77 or authorized to affix my signature on behalf of the owner (named  
78 below) of real property in the ..... Port Improvement  
79 District No. .... (insert name of district) which is qualified to vote  
80 in this election.

81 .....

82 **Signature**

83 .....

84 **Print Name of Real Property Owner**

85 **If Signer is Different from Owner:**

86 **Name of Signer:** .....

87 **State Basis of Legal Authority to Sign:** .....

88 All persons or entities having a fee ownership in the property shall sign  
89 the ballot. Additional signature pages may be affixed to this ballot to  
90 accommodate all required signatures.

91 4. Each qualified voter shall have one vote. Each voted ballot  
92 shall be signed with the authorized signature.

93 5. Mail-in ballots shall be returned to the election authority's  
94 office in person, or by depositing the ballot in the United States mail  
95 addressed to the election authority's office and postmarked no later  
96 than the date of the election. The election authority shall transmit all

97 voted ballots to a team of judges of not less than four. The judges shall  
98 be selected by the election authority from lists it has compiled. Upon  
99 receipt of the voted ballots, the judges shall verify the authenticity of  
100 the ballots, canvass the votes, and certify the results. Certification by  
101 the election judges shall be final and shall be immediately transmitted  
102 to the election authority. Any qualified voter who voted in such  
103 election may contest the result in the same manner as provided in  
104 chapter 115, RSMo.

105         6. The results of the election shall be entered upon the records  
106 of the election authority and two certified copies of the election results  
107 shall be filed with the port authority and entered upon the records of  
108 the port authority.

109         7. The port authority shall reimburse the election authority for  
110 the costs it incurs to conduct an election under this section.

111         8. Notwithstanding anything to the contrary, nothing in this act  
112 shall prevent a port authority from proposing both a real property tax  
113 levy question and a sales and use tax levy question to the district's  
114 qualified voters in the same election.

68.255. No lawsuit to set aside a district established or a tax  
2 levied under this act, or to otherwise question the validity of the  
3 proceedings related thereto, shall be brought after the expiration of  
4 ninety days from the effective date of the circuit court judgment  
5 establishing such district in question or the effective date of the  
6 resolution levying such tax in question.

68.260. 1. The provisions of this section shall only apply to a port  
2 authority that has formed a district.

3         2. In addition to any other report required of a port authority,  
4 within one hundred twenty days following the last day of the port  
5 authority's fiscal year, the board shall submit a report to the clerk of  
6 either the municipality or county which formed the port authority  
7 pursuant to section 68.010, and to the Missouri department of  
8 transportation stating the services provided, revenues collected and  
9 expenditures made by the district during such fiscal year, and copies  
10 of written resolutions approved by the board during the fiscal  
11 year. The municipal clerk or county clerk, as applicable, shall retain  
12 this report as part of the official records of the municipality or county  
13 and shall also cause this report to be spread upon the records of the

14 governing body.

15           3. In addition to the report required pursuant to subsection 2 of  
16 this section, upon the approval by the qualified voters of a real  
17 property tax or sales and use tax, or both, in accordance with the act,  
18 each authority shall annually submit a report to the auditor of the state  
19 of Missouri in accordance with section 105.145, RSMo.

✓

Unofficial

Bill

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