

FIRST REGULAR SESSION

SENATE BILL NO. 477

95TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR WRIGHT-JONES.

Read 1st time February 24, 2009, and ordered printed.

TERRY L. SPIELER, Secretary.

2104S.011

AN ACT

To repeal sections 238.202, 238.208, 238.220, 238.225, and 238.236, RSMo, and to enact in lieu thereof five 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Section A. Sections 238.202, 238.208, 238.220, 238.225, and 238.236, RSMo, are repealed and five new sections enacted in lieu thereof, to be known as sections 238.202, 238.208, 238.220, 238.225, and 238.236, to read as follows:

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

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

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

18 **or systems owned and operated by an interstate transportation**
19 **authority, a municipality, a city transit authority, or a city utilities**
20 **board, employing motor buses, rails, or any other means of conveyance,**
21 **by whatsoever type of power, operated for public use in the conveyance**
22 **of persons, mainly providing local transportation service within an**
23 **interstate transportation district or municipality.**

24 2. For the purposes of sections 11(c), 16 and 22 of article X of the
25 Constitution of Missouri, section 137.073, RSMo, and as used in sections 238.200
26 to 238.275, the following terms shall have the meanings given:

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

29 (2) "Qualified electors", "qualified voters" or "voters":

30 (a) Within a proposed or established district, except for a district proposed
31 under subsection 1 of section 238.207, any persons residing therein who have
32 registered to vote pursuant to chapter 115, RSMo; or

33 (b) Within a district proposed or established under subsection 1 of section
34 238.207 which has no persons residing therein who have registered to vote
35 pursuant to chapter 115, RSMo, the owners of record of all real property located
36 in the district, who shall receive one vote per acre, provided that if a registered
37 voter subsequent to the creation of the district becomes a resident within the
38 district and obtains ownership of property within the district, such registered
39 voter must elect whether to vote as an owner of real property or as a registered
40 voter, which election once made cannot thereafter be changed;

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

238.208. 1. The owners of property adjacent to a transportation district
2 formed under the Missouri transportation development district act may petition
3 the court by unanimous petition to add their property to the district. If the
4 property owners within the transportation development district unanimously
5 approve of the addition of property, the adjacent properties in the petition shall
6 be added to the district. Any property added under this section shall be subject
7 to all projects, taxes, and special assessments in effect as of the date of the court
8 order adding the property to the district. The owners of the added property shall
9 be allowed to vote at the next election scheduled for the district to fill vacancies
10 on the board and on any other question submitted to them by the board under
11 this chapter. The owners of property added under this section shall have one vote

12 per acre in the same manner as provided in subdivision (2) of subsection 2 of
13 section 238.220. **Notwithstanding any provision of this section to the**
14 **contrary, for any transportation development district formed by local**
15 **transportation authorities for a project including the operation of a**
16 **public mass transportation system, the unanimous approval of the**
17 **property owners within the district shall not be required; rather, the**
18 **adjacent properties in the petition shall be added upon the approval**
19 **and consent of the transportation development district board of**
20 **directors.**

21 2. The owners of all of the property located in a transportation
22 development district formed under this chapter may, by unanimous petition filed
23 with the board of directors of the district, remove any property from the district,
24 so long as such removal will not materially affect any obligations of the district.

238.220. 1. Notwithstanding anything to the contrary contained in section
2 238.216, if any persons eligible to be registered voters reside within the district
3 the following procedures shall be followed:

4 (1) After the district has been declared organized, the court shall upon
5 petition of any interested person order the county clerk to cause an election to be
6 held in all areas of the district within one hundred twenty days after the order
7 establishing the district, to elect the district board of directors which shall be not
8 less than five nor more than fifteen;

9 (2) Candidates shall pay the sum of five dollars as a filing fee to the
10 county clerk and shall file with the election authority of such county a statement
11 under oath that he or she possesses all of the qualifications set out in this section
12 for a director. Thereafter, such candidate shall have his or her name placed on
13 the ballot as a candidate for director;

14 (3) The director or directors to be elected shall be elected at large. The
15 candidate receiving the most votes from qualified voters shall be elected to the
16 position having the longest term, the second highest total votes elected to the
17 position having the next longest term, and so forth. Each initial director shall
18 serve the one-, two- or three-year term to which he or she was elected, and until
19 a successor is duly elected and qualified. Each successor director shall serve a
20 three-year term. The directors shall nominate and elect an interim director to
21 complete any unexpired term of a director caused by resignation or
22 disqualification; and

23 (4) Each director shall be a resident of the district. Directors shall be

24 registered voters at least twenty-one years of age.

25 2. Notwithstanding anything to the contrary contained in section 238.216,
26 if no persons eligible to be registered voters reside within the district, the
27 following procedures shall apply:

28 (1) Within thirty days after the district has been declared organized, the
29 circuit clerk of the county in which the petition was filed shall, upon giving notice
30 by causing publication to be made once a week for two consecutive weeks in a
31 newspaper of general circulation in the county, the last publication of which shall
32 be at least ten days before the day of the meeting required by this section, call a
33 meeting of the owners of real property within the district at a day and hour
34 specified in a public place in the county in which the petition was filed for the
35 purpose of electing a board of not less than five and not more than fifteen
36 directors, to be composed of owners or representatives of owners of real property
37 in the district; provided that, if all the owners of property in the district joined
38 in the petition for formation of the district, such meeting may be called by order
39 of the court without further publication. For the purposes of determining board
40 membership, the owner or owners of real property within the district and their
41 legally authorized representative or representatives shall be deemed to be
42 residents of the district; for business organizations and other entities owning real
43 property within the district, the individual or individuals legally authorized to
44 represent the business organizations or entities in regard to the district shall be
45 deemed to be a resident of the district;

46 (2) The property owners, when assembled, shall organize by the election
47 of a chairman and secretary of the meeting who shall conduct the election. At the
48 election, each acre of real property within the district shall represent one share,
49 and each owner may have one vote in person or by proxy for every acre of real
50 property owned by such person within the district;

51 (3) The one-third of the initial board members receiving the most votes
52 shall be elected to positions having a term of three years. The one-third of initial
53 board members receiving the next highest number of votes shall be elected to
54 positions having a term of two years. The lowest one-third of initial board
55 members receiving sufficient votes shall be elected to positions having a term of
56 one year. Each initial director shall serve the term to which he or she was
57 elected, and until a successor is duly elected and qualified. Successor directors
58 shall be elected in the same manner as the initial directors at a meeting of the
59 real property owners called by the board. Each successor director shall serve a

60 three-year term. The directors shall nominate and elect an interim director to
61 complete any unexpired term of a director caused by resignation or
62 disqualification;

63 (4) Directors shall be at least twenty-one years of age.

64 3. Notwithstanding any provision of section 238.216 and this section to
65 the contrary, if the petition for formation of the district was filed pursuant to
66 subsection 5 of section 238.207, the following procedures shall be followed:

67 (1) **If the district is comprised of any of one or more local**
68 **transportation authorities with a project including the operation of a**
69 **public mass transportation system, the board of directors shall consist**
70 **of not less than three nor more than five persons appointed by the chief**
71 **executive officers of each local transportation authority proposing the**
72 **creation of the district. For all other districts, if the district is comprised**
73 of four or more local transportation authorities, the board of directors shall
74 consist of the presiding officer of each local transportation authority within the
75 district. If the district is comprised of two or three local transportation
76 authorities, the board of directors shall consist of the presiding officer of each
77 local transportation authority within the district and one person designated by
78 the governing body of each local transportation authority within the district;

79 (2) Each director shall be at least twenty-one years of age and a resident
80 or property owner of the local transportation authority the director represents.
81 A director designated by the governing body of a local transportation authority
82 may be removed by such governing body at any time with or without cause, **and**
83 **a director appointed by the chief executive officer may be removed by**
84 **the chief executive officer at any time with or without cause;** and

85 (3) Upon the assumption of office of a new presiding officer of a local
86 transportation authority, such individual shall automatically succeed his
87 predecessor as a member of the board of directors. Upon the removal, resignation
88 or disqualification of a director designated by the governing body of a local
89 transportation authority, such governing body shall designate a successor
90 director.

91 4. **Except for those districts formed by local transportation**
92 **authorities for projects including the operation of a public mass**
93 **transportation system,** the commission shall appoint one or more advisors to
94 the board, who shall have no vote but shall have the authority to participate in
95 all board meetings and discussions, whether open or closed, and shall have access

96 to all records of the district and its board of directors.

97 5. If the proposed project is not intended to be merged into the state
98 highways and transportation system under the commission's jurisdiction, the local
99 transportation authority that will assume maintenance of the project shall
100 appoint one or more advisors to the board of directors who shall have the same
101 rights as advisors appointed by the commission.

102 6. Any county or counties located wholly or partially within the district
103 which is not a local transportation authority pursuant to subdivision (4) of
104 subsection 1 of section 238.202 may appoint one or more advisors to the board
105 who shall have the same rights as advisors appointed by the commission.

238.225. 1. Before construction or funding of any project the district shall
2 submit the proposed project to the commission for its prior approval. If the
3 commission by minute finds that the project will improve or is a necessary or
4 desirable extension of the state highways and transportation system, the
5 commission may preliminarily approve the project subject to the district providing
6 plans and specifications for the proposed project and making any revisions in the
7 plans and specifications required by the commission and the district and
8 commission entering into a mutually satisfactory agreement regarding
9 development and future maintenance of the project. After such preliminary
10 approval, the district may impose and collect such taxes and assessments as may
11 be included in the commission's preliminary approval. After the commission
12 approves the final construction plans and specifications, the district shall obtain
13 prior commission approval of any modification of such plans or specifications.

14 2. If the proposed project is not intended to be merged into the state
15 highways and transportation system under the commission's jurisdiction, the
16 district shall also submit the proposed project and proposed plans and
17 specifications to the local transportation authority that will become the owner of
18 the project for its prior approval.

19 3. In those instances where a local transportation authority is required
20 to approve a project and the commission determines that it has no direct interest
21 in that project, the commission may decline to consider the project. Approval of
22 the project shall then vest exclusively with the local transportation authority
23 subject to the district making any revisions in the plans and specifications
24 required by the local transportation authority and the district and the local
25 transportation authority entering into a mutually satisfactory agreement
26 regarding development and future maintenance of the project. After the local

27 transportation authority approves the final construction plans and specifications,
28 the district shall obtain prior approval of the local transportation authority before
29 modifying such plans or specifications.

30 **4. Notwithstanding any provision of this section to the contrary,**
31 **this section shall not apply to any transportation development district**
32 **formed by local transportation authorities for a project including the**
33 **operation of a public mass transportation system.**

238.236. 1. This section shall not apply to any tax levied pursuant to
2 section 238.235, and no tax shall be imposed pursuant to the provisions of this
3 section if a tax has been imposed by a transportation development district
4 pursuant to section 238.235.

5 2. In lieu of the taxes allowed pursuant to section 238.235, any
6 transportation development district which consists of all of one or more entire
7 counties, all of one or more entire cities, or all of one or more entire counties and
8 one or more entire cities which are totally outside the boundaries of those
9 counties may by resolution impose a transportation development district sales tax
10 on all retail sales made in such transportation development district which are
11 subject to taxation pursuant to the provisions of sections 144.010 to 144.525,
12 RSMo, for any transportation development purpose designated by the
13 transportation development district in its ballot of submission to its qualified
14 voters. No resolution enacted pursuant to the authority granted by this section
15 shall be effective unless:

16 (1) The board of directors of the transportation development district
17 submits to the qualified voters of the transportation development district, at a
18 state general, primary, or special election, a proposal to authorize the board of
19 directors of the transportation development district to impose or increase the levy
20 of an existing tax pursuant to the provisions of this section; or

21 (2) The voters approved the question certified by the petition filed
22 pursuant to subsection 5 of section 238.207.

23 3. If the transportation development district submits to the qualified
24 voters of the transportation development district a proposal to authorize the
25 board of directors of the transportation development district to impose or increase
26 the levy of an existing tax pursuant to the provisions of subdivision (1) of
27 subsection 2 of this section, the ballot of submission shall contain, but need not
28 be limited to, the following language:

29 Shall the transportation development district of(transportation

30 development district's name) impose a transportation development district-wide
31 sales tax at the rate of (insert amount) for a period of (insert
32 number) years from the date on which such tax is first imposed for the purpose
33 of (insert transportation development purpose)?

34 YES NO

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

37 If a majority of the votes cast on the proposal by the qualified voters voting
38 thereon are in favor of the proposal, then the resolution and any amendments
39 thereto shall be in effect. If a majority of the votes cast by the qualified voters
40 voting are opposed to the proposal, then the board of directors of the
41 transportation development district shall have no power to impose the sales tax
42 authorized by this section unless and until the board of directors of the
43 transportation development district shall again have submitted another proposal
44 to authorize it to impose the sales tax pursuant to the provisions of this section
45 and such proposal is approved by a majority of the qualified voters voting
46 thereon.

47 4. Within ten days after the adoption of any resolution in favor of the
48 adoption of a transportation development district sales tax which has been
49 approved by the qualified voters of such transportation development district, the
50 transportation development district shall forward to the director of revenue, by
51 United States registered mail or certified mail, a certified copy of the resolution
52 of its board of directors. The resolution shall reflect the effective date
53 thereof. The sales tax authorized by this section shall become effective on the
54 first day of the second calendar quarter after the director of revenue receives
55 notice of adoption of such tax.

56 5. All revenue received by a transportation development district from the
57 tax authorized by this section which has been designated for a certain
58 transportation development purpose shall be deposited in a special trust fund and
59 shall be used solely for such designated purpose. Upon the expiration of the
60 period of years approved by the qualified voters pursuant to subsection 3 of this
61 section or if the tax authorized by this section is repealed pursuant to subsection
62 12 of this section, all funds remaining in the special trust fund shall continue to
63 be used solely for such designated transportation development purpose. Any
64 funds in such special trust fund which are not needed for current expenditures
65 may be invested by the board of directors in accordance with applicable laws

66 relating to the investment of other transportation development district funds.

67 6. The sales tax may be imposed at a rate of one-eighth of one percent,
68 one-fourth of one percent, three-eighths of one percent, one-half of one percent or
69 one percent on the receipts from the sale at retail of all tangible personal
70 property or taxable services at retail within the transportation development
71 district adopting such tax, if such property and services are subject to taxation
72 by the state of Missouri pursuant to the provisions of sections 144.010 to 144.525,
73 RSMo. Any transportation development district sales tax imposed pursuant to
74 this section shall be imposed at a rate that shall be uniform throughout the
75 district.

76 7. The resolution imposing the sales tax pursuant to this section shall
77 impose upon all sellers a tax for the privilege of engaging in the business of
78 selling tangible personal property or rendering taxable services at retail to the
79 extent and in the manner provided in sections 144.010 to 144.525, RSMo, and the
80 rules and regulations of the director of revenue issued pursuant thereto; except
81 that the rate of the tax shall be the rate imposed by the resolution as the sales
82 tax. The amount reported and returned to the director of revenue by the seller
83 shall be computed on the basis of the combined rate of the tax imposed by
84 sections 144.010 to 144.525, RSMo, and the tax imposed by the resolution as
85 authorized by this section, plus any amounts imposed pursuant to other
86 provisions of law.

87 8. On and after the effective date of any tax imposed pursuant to this
88 section, the director of revenue shall perform all functions incident to the
89 administration, collection, enforcement, and operation of the tax, and the director
90 of revenue shall collect, in addition to all other sales taxes imposed by law, the
91 additional tax authorized pursuant to this section. The tax imposed pursuant to
92 this section and the taxes imposed pursuant to all other laws of the state of
93 Missouri shall be collected together and reported upon such forms and pursuant
94 to such administrative rules and regulations as may be prescribed by the director
95 of revenue.

96 9. All applicable provisions contained in sections 144.010 to 144.525,
97 RSMo, governing the state sales tax, sections 32.085 and 32.087, RSMo, governing
98 local sales taxes, and section 32.057, RSMo, the uniform confidentiality provision,
99 shall apply to the collection of the tax imposed by this section, except as modified
100 in this section.

101 10. All sales taxes collected by the director of revenue pursuant to this

102 section on behalf of any transportation development district, less one percent for
103 the cost of collection, which shall be deposited in the state's general revenue fund
104 after payment of premiums for surety bonds as provided in section 32.087, RSMo,
105 shall be deposited in the state treasury to the credit of the "Transportation
106 Development District Sales Tax Fund", which is hereby created. Moneys in the
107 transportation development district sales tax fund shall not be deemed to be state
108 funds and shall not be commingled with any funds of the state. All interest
109 earned upon the balance in the transportation development district sales tax fund
110 shall be deposited to the credit of the same fund. Any balance in the fund at the
111 end of an appropriation period shall not be transferred to the general revenue
112 fund and the provisions of section 33.080, RSMo, shall not apply to the fund. The
113 director of revenue shall keep accurate records of the amount of money which was
114 collected in each transportation development district imposing a sales tax
115 pursuant to this section, and the records shall be open to the inspection of officers
116 of each transportation development district and the general public. Not later
117 than the tenth day of each month, the director of revenue shall distribute all
118 moneys deposited in such fund during the preceding month to the proper
119 transportation development district.

120 11. The director of revenue may authorize the state treasurer to make
121 refunds from the amounts credited to any transportation development district for
122 erroneous payments and overpayments made, and may redeem dishonored checks
123 and drafts deposited to the credit of such districts. If any transportation
124 development district repeals the tax authorized by this section, the transportation
125 development district shall notify the director of revenue of the action at least
126 ninety days prior to the effective date of the repeal and the director of revenue
127 may order retention, for a period of one year, of two percent of the amount
128 collected after receipt of such notice to cover possible refunds or overpayment of
129 such tax and to redeem dishonored checks and drafts deposited to the credit of
130 such accounts. After one year has elapsed after the effective date of repeal of the
131 tax authorized by this section in such transportation development district, the
132 director of revenue shall remit the balance in the account to the transportation
133 development district and close the account of that transportation development
134 district. The director of revenue shall notify each transportation development
135 district of each instance of any amount refunded or any check redeemed from
136 receipts due the transportation development district.

137 12. (1) No transportation development district imposing a sales tax

138 pursuant to this section may repeal or amend such sales tax unless such repeal
139 or amendment will not impair the district's ability to repay any liabilities which
140 it has incurred, money which it has borrowed or revenue bonds, notes or other
141 obligations which it has issued or which have been issued by the commission or
142 any local transportation authority to finance any project or projects.

143 (2) Whenever the board of directors of any transportation development
144 district in which a transportation development sales tax has been imposed in the
145 manner provided by this section receives a petition, signed by ten percent of the
146 qualified voters of such transportation development district calling for an election
147 to repeal such transportation development sales tax, the board of directors shall,
148 if such repeal will not impair the district's ability to repay any liabilities which
149 it has incurred, money which it has borrowed or revenue bonds, notes or other
150 obligations which it has issued or which have been issued by the commission or
151 any local transportation authority to finance any project or projects, submit to the
152 voters of such transportation development district a proposal to repeal the
153 transportation development sales tax imposed pursuant to the provisions of this
154 section. If a majority of the votes cast on the proposal by the qualified voters
155 voting thereon are in favor of the proposal to repeal the transportation
156 development sales tax, then the resolution imposing the transportation
157 development sales tax, along with any amendments thereto, is repealed. If a
158 majority of the votes cast by the qualified voters voting thereon are opposed to
159 the proposal to repeal the transportation development sales tax, then the
160 resolution imposing the transportation development sales tax, along with any
161 amendments thereto, shall remain in effect.

162 **13. Notwithstanding any provision of sections 99.800 to 99.865,**
163 **RSMo, and this section to the contrary, the sales tax for a**
164 **transportation district formed by local transportation authorities for**
165 **projects including the operation of a public mass transportation**
166 **system:**

167 (1) **Shall not be considered economic activity taxes as such term**
168 **is defined under sections 99.805 and 99.918, RSMo;**

169 (2) **Tax revenues derived from such tax shall not be subject to**
170 **allocation under the provisions of subsection 3 of section 99.845, RSMo,**
171 **or subsection 4 of section 99.957, RSMo; and**

172 (3) **Shall be collected by the director of revenue, less one percent**
173 **for the cost of collection which shall be deposited in the state's general**

174 revenue fund after payment of premiums for surety bonds as provided
175 in section 32.087, RSMo, and shall be deposited with the state treasurer
176 in a special trust fund, which is hereby created, to be known as the
177 "Transportation Development District Sales Tax Trust Fund". The
178 moneys in this fund are not state funds and shall not be commingled
179 with any funds of the state. The director of revenue shall keep
180 accurate records of the amount of money in the trust fund which was
181 collected in each district wherein a sales tax is imposed pursuant to the
182 provisions of this section. The records shall be open to the inspection
183 of the officers of the city and the public.

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