

SECOND REGULAR SESSION

[P E R F E C T E D]

SENATE SUBSTITUTE FOR

SENATE BILL NO. 578

95TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR SHIELDS.

Offered February 15, 2010.

Senate Substitute adopted, February 15, 2010.

Taken up for Perfection February 15, 2010. Bill declared Perfected and Ordered Printed, as amended.

TERRY L. SPIELER, Secretary.

3168S.04P

AN ACT

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

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2 repealed and nineteen new sections enacted in lieu thereof, to be known as
3 sections 68.025, 68.035, 68.040, 68.057, 68.070, 68.200, 68.205, 68.210, 68.215,
4 68.220, 68.225, 68.230, 68.235, 68.240, 68.245, 68.250, 68.255, 68.259, and 68.260,
5 to read as 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;**

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

13 **(5) Within the boundaries of any established port improvement**
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; except that no port**
17 **improvement district real property tax may be levied on any property,**
18 **real, or personal, which is assessed pursuant to sections 151.010 to**
19 **151.340, unless such real property tax levy is agreed to in writing by**
20 **the property's owner;**

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

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

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

34 **[(5)] (9) Represent its port districts before all federal, state and local**
35 **agencies;**

36 **[(6)] (10) Cooperate with other public agencies and with industry,**
37 **business, and labor in port district improvement matters;**

38 **[(7)] (11) Enter into any agreement with any other states, agencies,**
39 **authorities, commissions, municipalities, persons, corporations, or the United**
40 **States, to effect any of the provisions contained in this chapter;**

41 **[(8)] (12) Approve the construction of all wharves, piers, bulkheads,**
42 **jetties, or other structures;**

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

49 [(10)] **(14)** Recommend the relocation, change, or removal of dock lines
50 and shore or harbor lines;

51 [(11)] **(15)** Acquire, own, construct, redevelop, lease, maintain, and
52 conduct land reclamation and resource recovery [with respect to unimproved
53 land], **including the removal of sand, rock, or gravel**, residential
54 developments, commercial developments, mixed-use developments, recreational
55 facilities, industrial parks, industrial facilities, and terminals, terminal facilities,
56 warehouses and any other type port facility;

57 [(12)] **(16)** Acquire, own, lease, sell or otherwise dispose of interest in
58 and to real property and improvements situate thereon and in personal property
59 necessary to fulfill the purposes of the port authority;

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

70 [(14)] **(18)** Contract and be contracted with, and to sue and be sued;

71 [(15)] **(19)** Accept gifts, grants, loans or contributions from the United
72 States of America, the state of Missouri, political subdivisions, municipalities,
73 foundations, other public or private agencies, individual, partnership or
74 corporations;

75 [(16)] **(20)** Employ such managerial, engineering, legal, technical,
76 clerical, accounting, advertising, stenographic, and other assistance as it may
77 deem advisable. The port authority may also contract with independent
78 contractors for any of the foregoing assistance;

79 [(17)] **(21)** Improve navigable and nonnavigable areas as regulated by
80 federal statute;

81 [(18)] **(22)** Disburse funds for its lawful activities and fix salaries and
82 wages of its employees; and

83 [(19)] **(23)** Adopt, alter or repeal its own bylaws, rules and regulations
84 governing the manner in which its business may be transacted; however, said

85 bylaws, rules and regulations shall not exceed the powers granted to the port
86 authority by this chapter.

87 2. In implementing its powers, the port authority shall have the power to
88 enter into agreements with private operators or public entities for the joint
89 development, redevelopment, and reclamation of property within a port district
90 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.

**68.057. Any expenditure made by a port authority, as defined in
2 section 68.205, that is over twenty-five thousand dollars, including
3 professional service contracts, shall be competitively bid.**

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;

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 as determined by the election authority as of the thirtieth day prior to
131 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 shall:**

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 has been**
23 **signed by property owners collectively owning more than sixty percent**
24 **per capita of all owners of real property within the boundaries of the**
25 **proposed district and contains the following information:**

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

32 **(2) A district name designation which shall be set out in the**
33 **following format:**

34 **(a) The name of the Missouri county or municipality in which the**
35 **port district boundaries are filed;**

36 **(b) The words "port improvement district"; and**

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

40 **(3) A description of the proposed project or projects for which**
41 **the district is being formed, and the estimated qualified project costs**
42 **of such projects;**

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

46 **(5) The estimated revenues projected to be generated by any**
47 **such tax or taxes;**

48 **(6) The name and address of each respondent;**

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

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

55 **3. Notwithstanding the provisions of sections 68.200 to 68.260 to**
56 **the contrary, a port authority located within any county of the first**
57 **classification with more than one hundred eighty-four thousand but**
58 **fewer than one hundred eighty-eight thousand inhabitants shall not**
59 **have the authority to establish any port improvement district within its**
60 **port district boundaries.**

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, except sales of motor vehicles,
 9 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, notify the director of revenue. The
 37 sales and use tax authorized by this section shall become effective on
 38 the first day of the second calendar quarter after the director of
 39 revenue receives notice of the adoption of such sales and use tax.

40 4. The director of revenue shall collect any sales and use tax
41 pursuant to section 32.087.

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

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

50 7. All revenue received by the port authority from a sales and
51 use tax imposed pursuant to this section which is designated for a
52 specific project shall be deposited into a special trust fund to be
53 expended solely for such purpose, or to the port authority's treasury if
54 such sums are not designated. Upon the expiration of any sales and use
55 tax adopted pursuant to this section, all funds remaining in the special
56 trust fund shall continue to be used solely for the specific purpose
57 designated in the ballot adopted by the qualified voters. Any funds in
58 such special trust fund which are not needed for current expenditures
59 may be invested by the port authority pursuant to applicable laws
60 relating to the investment of other port authority funds and the port
61 authority may use such funds for other approved port improvement
62 projects.

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

68.250. 1. Notwithstanding the provisions of chapter 115 except
2 the provisions of section 115.125, when applicable, an election for any
3 proposed real property tax or proposed sales and use tax, or both,
4 within a district pursuant to this act shall be conducted in accordance
5 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, not earlier than the tenth Tuesday, and not later than
22 the fifteenth Tuesday, after the date the board passes the resolution
23 and shall not be on the same day as an election conducted pursuant to
24 the provisions of chapter 115;

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 shall 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.**

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.

68.259. Notwithstanding the provisions of section 1.140 to the
2 contrary, the provisions of sections 68.025, 68.035, 68.040, 68.057, 68.070,
3 68.200, 68.205, 68.210, 68.215, 68.220, 68.225, 68.230, 68.235, 68.240, 68.245,
4 68.250, 68.255, and 68.260 as contained in this act shall be nonseverable,
5 and if any provision is for any reason held to be invalid, such decision
6 shall invalidate all of the remaining provisions of sections 68.025,
7 68.035, 68.040, 68.057, 68.070, 68.200, 68.205, 68.210, 68.215, 68.220, 68.225,
8 68.230, 68.235, 68.240, 68.245, 68.250, 68.255, and 68.260 as contained in
9 this act.

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.

✓