

FIRST REGULAR SESSION

SENATE BILL NO. 49

96TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR WRIGHT-JONES.

Pre-filed December 1, 2010, and ordered printed.

TERRY L. SPIELER, Secretary.

0219S.011

AN ACT

To repeal sections 238.202, 238.208, 238.220, 238.225, 238.232, and 238.236, RSMo, and to enact in lieu thereof six 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Section A. Sections 238.202, 238.208, 238.220, 238.225, 238.232, and 238.236, RSMo, are repealed and six new sections enacted in lieu thereof, to be known as sections 238.202, 238.208, 238.220, 238.225, 238.232, and 238.236, to read as follows: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;

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

17 **(6) "Public mass transportation system", a transportation system**
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, and as used in sections 238.200 to
26 238.275, 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; 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, the owners of record of all real property located in the
36 district, who shall receive one vote per acre, provided that if a registered voter
37 subsequent to the creation of the district becomes a resident within the district
38 and obtains ownership of property within the district, such registered voter must
39 elect whether to vote as an owner of real property or as a registered voter, which
40 election once made cannot thereafter be changed;

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

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

11 and on any other question submitted to them by the board under this
12 chapter. The owners of property added under this section shall have one vote per
13 acre in the same manner as provided in subdivision (2) of subsection 2 of section
14 238.220. **The unanimous property owner approval requirement shall not**
15 **apply to any transportation development district formed by local**
16 **transportation authorities to operate a public transportation system,**
17 **and the court shall add adjacent properties in the petition to the**
18 **district upon the approval and consent of the transportation**
19 **development district's board of directors.**

20 2. The owners of all of the property located in a transportation
21 development district formed under this chapter may, by unanimous petition filed
22 with the board of directors of the district, remove any property from the district,
23 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 to operate a public mass transportation**
69 **system, the board of directors shall consist of not less than three nor**
70 **more than five persons appointed by the chief executive officers of each**
71 **local transportation authority proposing the creation of the**
72 **district. For all other districts, if the district is comprised of four or more**
73 local transportation authorities, the board of directors shall consist of the
74 presiding officer of each local transportation authority within the district. If the
75 district is comprised of two or three local transportation authorities, the board of
76 directors shall consist of the presiding officer of each local transportation
77 authority within the district and one person designated by the governing body of
78 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 to operate a public mass transportation system,** the
93 commission shall appoint one or more advisors to the board, who shall have no
94 vote but shall have the authority to participate in all board meetings and
95 discussions, whether open or closed, and shall have access to all records of the

96 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.

22 Approval of the project shall then vest exclusively with the local transportation
23 authority subject to the district making any revisions in the plans and
24 specifications required by the local transportation authority and the district and
25 the local 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 to operate a public mass**
 33 **transportation system.**

238.232. 1. If approved by at least four-sevenths of the qualified voters
 2 voting on the question in the district, the district may impose a property tax in
 3 an amount not to exceed the annual rate of ten cents on the hundred dollars
 4 assessed valuation. The district board may levy a property tax rate lower than
 5 its approved tax rate ceiling and may increase that lowered tax rate to a level not
 6 exceeding the tax rate ceiling without voter approval. The property tax shall be
 7 uniform throughout the district.

8 2. The ballot of submission shall be substantially in the following form:

9 Shall the Transportation Development District impose a property
 10 tax upon all real and tangible personal property within the district at a rate of
 11 not more than (insert amount) cents per hundred dollars assessed
 12 valuation for the purpose of providing revenue for the development of a project
 13 (or projects) in the district (insert general description of the project or projects,
 14 if necessary)?

15 YES NO

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

18 3. The county collector of each county in which the district is partially or
 19 entirely located shall collect the property taxes and special benefit assessments
 20 made upon all real property and tangible personal property within that county
 21 and the district, in the same manner as other property taxes are collected.

22 4. Every county collector having collected or received district property
 23 taxes shall, on or before the fifteenth day of each month and after deducting his
 24 commissions, remit to the treasurer of that district the amount collected or
 25 received by him prior to the first day of the month. Upon receipt of such money,
 26 the district treasurer shall execute a receipt therefor, which he shall forward or
 27 deliver to the collector. The district treasurer shall deposit such sums into the
 28 district treasury, credited to the appropriate project or purpose. The collector and
 29 district treasurer shall make final settlement of the district account and

30 commissions owing, not less than once each year, if necessary.

31 **5. Notwithstanding any provision of sections 99.800 to 99.865 to**
32 **the contrary, the real property tax for a transportation development**
33 **district shall not be considered "payment in lieu of taxes" as such term**
34 **is defined under sections 99.805 and 99.918. Tax revenues derived from**
35 **such tax shall not be subject to allocation under the provisions of**
36 **subsection 2 of section 99.845, or subsection 3 of section 99.957.**

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

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

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

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

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

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

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

98 10. All sales taxes collected by the director of revenue pursuant to this
99 section on behalf of any transportation development district, less one percent for
100 the cost of collection, which shall be deposited in the state's general revenue fund
101 after payment of premiums for surety bonds as provided in section 32.087, shall

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

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

134 12. (1) No transportation development district imposing a sales tax
135 pursuant to this section may repeal or amend such sales tax unless such repeal
136 or amendment will not impair the district's ability to repay any liabilities which
137 it has incurred, money which it has borrowed or revenue bonds, notes or other

138 obligations which it has issued or which have been issued by the commission or
139 any local transportation authority to finance any project or projects.

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

159 **13. Notwithstanding any provision of sections 99.800 to 99.865,**
160 **and this section to the contrary, the sales tax for a transportation**
161 **district formed by local transportation authorities to operate a public**
162 **mass transportation system:**

163 (1) **Shall not be considered economic activity taxes as such term**
164 **is defined under sections 99.805 and 99.918;**

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

168 (3) **Shall be collected by the director of revenue, less one percent**
169 **for the cost of collection which shall be deposited in the state's general**
170 **revenue fund after payment of premiums for surety bonds as provided**
171 **in section 32.087 and shall be deposited in a special trust fund, which**
172 **is hereby created, to be known as the "Public Mass Transportation**
173 **Development District Sales Tax Trust Fund". The moneys in this fund**

174 are not state funds and shall not be commingled with any funds of the
175 state. The director of revenue shall keep accurate records of the
176 amount of money in the trust fund which was collected in each district
177 wherein a sales tax is imposed pursuant to the provisions of this
178 section. The records shall be open to the inspection of the officers of
179 the city and the public. Not later than the tenth day of each month, the
180 director of revenue shall distribute all moneys deposited in the fund
181 described in this subsection during the preceding month to the proper
182 transportation development district.

Unofficial ✓

Bill

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