

SENATE SUBSTITUTE
FOR
SENATE COMMITTEE SUBSTITUTE
FOR
HOUSE BILL NO. 1768

AN ACT

To repeal sections 67.453, 67.1461, 67.1846, 67.5122, 392.020, 620.2451, and 620.2459, RSMo, and to enact in lieu thereof seven new sections relating to communications services.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF MISSOURI,
AS FOLLOWS:

1 Section A. Sections 67.453, 67.1461, 67.1846, 67.5122,
2 392.020, 620.2451, and 620.2459, RSMo, are repealed and seven new
3 sections enacted in lieu thereof, to be known as sections 67.453,
4 67.1461, 67.1846, 67.5122, 392.020, 620.2451, and 620.2459, to
5 read as follows:

6 67.453. Sections 67.453 to 67.475 are known and may be
7 cited as the "Neighborhood Improvement District Act", and the
8 following words and terms, as used in sections 67.453 to 67.475
9 mean:

10 (1) "Acquire", the acquisition of property or interests in
11 property by purchase, gift, condemnation or other lawful means
12 and may include the acquisition of existing property and
13 improvements already owned by the city or county;

14 (2) "Consultant", engineers, architects, planners,
15 attorneys, financial advisors, accountants, investment bankers
16 and other persons deemed competent to advise and assist the

1 governing body of the city or county in planning and making
2 improvements;

3 (3) "Cost", all costs incurred in connection with an
4 improvement, including, but not limited to, costs incurred for
5 the preparation of preliminary reports, the preparation of plans
6 and specifications, the preparation and publication of notices of
7 hearings, resolutions, ordinances and other proceedings, fees and
8 expenses of consultants, interest accrued on borrowed money
9 during the period of construction, underwriting costs and other
10 costs incurred in connection with the issuance of bonds or notes,
11 establishment of reasonably required reserve funds for bonds or
12 notes, the cost of land, materials, labor and other lawful
13 expenses incurred in planning, acquiring and doing any
14 improvement, reasonable construction contingencies, and work done
15 or services performed by the city or county in the administration
16 and supervision of the improvement;

17 (4) "Improve", to construct, reconstruct, maintain,
18 restore, replace, renew, repair, install, equip, extend, or to
19 otherwise perform any work which will provide a new public
20 facility or enhance, extend or restore the value or utility of an
21 existing public facility;

22 (5) "Improvement", any one or more public facilities or
23 improvements which confer a benefit on property within a
24 definable area and may include or consist of a reimprovement of a
25 prior improvement. Improvements include, but are not limited to,
26 the following activities:

27 (a) To acquire property or interests in property when
28 necessary or desirable for any purpose authorized by sections

1 67.453 to 67.475;

2 (b) To open, widen, extend and otherwise to improve
3 streets, paving and other surfacing, gutters, curbs, sidewalks,
4 crosswalks, driveway entrances and structures, drainage works
5 incidental thereto, and service connections from sewer, water,
6 gas and other utility mains, conduits or pipes;

7 (c) To improve main and lateral storm water drains and
8 sanitary sewer systems, and appurtenances thereto;

9 (d) To improve street lights and street lighting systems;

10 (e) To improve waterworks systems;

11 (f) To partner with a telecommunications company or
12 broadband service provider in order to construct or improve
13 telecommunications facilities which shall be wholly owned and
14 operated by the telecommunications company or broadband service
15 provider, as the terms "telecommunications company" and
16 "telecommunications facilities" are defined in section 386.020
17 and subject to the provisions of section 392.410, that are in an
18 unserved or underserved area, as defined in section 620.2450.
19 Before any facilities are improved or constructed as a result of
20 this section, the area shall be certified as unserved or
21 underserved by the director of broadband development within the
22 department of economic development;

23 (g) To improve parks, playgrounds and recreational
24 facilities;

25 [(g)] (h) To improve any street or other facility by
26 landscaping, planting of trees, shrubs, and other plants;

27 [(h)] (i) To improve dikes, levees and other flood control
28 works, gates, lift stations, bridges and streets appurtenant

1 thereto;

2 [(i)] (j) To improve vehicle and pedestrian bridges,
3 overpasses and tunnels;

4 [(j)] (k) To improve retaining walls and area walls on
5 public ways or land abutting thereon;

6 [(k)] (l) To improve property for off-street parking
7 facilities including construction and equipment of buildings
8 thereon;

9 [(l)] (m) To acquire or improve any other public facilities
10 or improvements deemed necessary by the governing body of the
11 city or county; and

12 [(m)] (n) To improve public safety;

13 (6) "Neighborhood improvement district", an area of a city
14 or county with defined limits and boundaries which is created by
15 vote or by petition under sections 67.453 to 67.475 and which is
16 benefitted by an improvement and subject to special assessments
17 against the real property therein for the cost of the
18 improvement.

19 67.1461. 1. Each district shall have all the powers,
20 except to the extent any such power has been limited by the
21 petition approved by the governing body of the municipality to
22 establish the district, necessary to carry out and effectuate the
23 purposes and provisions of sections 67.1401 to 67.1571 including,
24 but not limited to, the following:

25 (1) To adopt, amend, and repeal bylaws, not inconsistent
26 with sections 67.1401 to 67.1571, necessary or convenient to
27 carry out the provisions of sections 67.1401 to 67.1571;

28 (2) To sue and be sued;

1 (3) To make and enter into contracts and other instruments,
2 with public and private entities, necessary or convenient to
3 exercise its powers and carry out its duties pursuant to sections
4 67.1401 to 67.1571;

5 (4) To accept grants, guarantees and donations of property,
6 labor, services, or other things of value from any public or
7 private source;

8 (5) To employ or contract for such managerial, engineering,
9 legal, technical, clerical, accounting, or other assistance as it
10 deems advisable;

11 (6) To acquire by purchase, lease, gift, grant, bequest,
12 devise, or otherwise, any real property within its boundaries,
13 personal property, or any interest in such property;

14 (7) To sell, lease, exchange, transfer, assign, mortgage,
15 pledge, hypothecate, or otherwise encumber or dispose of any real
16 or personal property or any interest in such property;

17 (8) To levy and collect special assessments and taxes as
18 provided in sections 67.1401 to 67.1571. However, no such
19 assessments or taxes shall be levied on any property exempt from
20 taxation pursuant to subdivision (5) of section 137.100. Those
21 exempt pursuant to subdivision (5) of section 137.100 may
22 voluntarily participate in the provisions of sections 67.1401 to
23 67.1571;

24 (9) If the district is a political subdivision, to levy
25 real property taxes and business license taxes in the county seat
26 of a county of the first classification containing a population
27 of at least two hundred thousand, as provided in sections 67.1401
28 to 67.1571. However, no such assessments or taxes shall be

1 levied on any property exempt from taxation pursuant to
2 subdivisions (2) and (5) of section 137.100. Those exempt
3 pursuant to subdivisions (2) and (5) of section 137.100 may
4 voluntarily participate in the provisions of sections 67.1401 to
5 67.1571;

6 (10) If the district is a political subdivision, to levy
7 sales taxes pursuant to sections 67.1401 to 67.1571;

8 (11) To fix, charge, and collect fees, rents, and other
9 charges for use of any of the following:

10 (a) The district's real property, except for public
11 rights-of-way for utilities;

12 (b) The district's personal property, except in a city not
13 within a county; or

14 (c) Any of the district's interests in such real or
15 personal property, except for public rights-of-way for utilities;

16 (12) To borrow money from any public or private source and
17 issue obligations and provide security for the repayment of the
18 same as provided in sections 67.1401 to 67.1571;

19 (13) To loan money as provided in sections 67.1401 to
20 67.1571;

21 (14) To make expenditures, create reserve funds, and use
22 its revenues as necessary to carry out its powers or duties and
23 the provisions and purposes of sections 67.1401 to 67.1571;

24 (15) To enter into one or more agreements with the
25 municipality for the purpose of abating any public nuisance
26 within the boundaries of the district including, but not limited
27 to, the stabilization, repair or maintenance or demolition and
28 removal of buildings or structures, provided that the

1 municipality has declared the existence of a public nuisance;

2 (16) Within its boundaries, to provide assistance to or to
3 construct, reconstruct, install, repair, maintain, and equip any
4 of the following public improvements:

5 (a) Pedestrian or shopping malls and plazas;

6 (b) Parks, lawns, trees, and any other landscape;

7 (c) Convention centers, arenas, aquariums, aviaries, and
8 meeting facilities;

9 (d) Sidewalks, streets, alleys, bridges, ramps, tunnels,
10 overpasses and underpasses, traffic signs and signals, utilities,
11 drainage, water, storm and sewer systems, and other site
12 improvements;

13 (e) Parking lots, garages, or other facilities;

14 (f) Lakes, dams, and waterways;

15 (g) Streetscape, lighting, benches or other seating
16 furniture, trash receptacles, marquees, awnings, canopies, walls,
17 and barriers;

18 (h) Telephone and information booths, bus stop and other
19 shelters, rest rooms, and kiosks;

20 (i) Paintings, murals, display cases, sculptures, and
21 fountains;

22 (j) Music, news, and child-care facilities; and

23 (k) Any other useful, necessary, or desired improvement;

24 (17) To dedicate to the municipality, with the
25 municipality's consent, streets, sidewalks, parks, and other real
26 property and improvements located within its boundaries for
27 public use;

28 (18) Within its boundaries and with the municipality's

1 consent, to prohibit or restrict vehicular and pedestrian traffic
2 and vendors on streets, alleys, malls, bridges, ramps, sidewalks,
3 and tunnels and to provide the means for access by emergency
4 vehicles to or in such areas;

5 (19) Within its boundaries, to operate or to contract for
6 the provision of music, news, child-care, or parking facilities,
7 and buses, minibuses, or other modes of transportation;

8 (20) Within its boundaries, to lease space for sidewalk
9 café tables and chairs;

10 (21) Within its boundaries, to provide or contract for the
11 provision of security personnel, equipment, or facilities for the
12 protection of property and persons;

13 (22) Within its boundaries, to provide or contract for
14 cleaning, maintenance, and other services to public and private
15 property;

16 (23) To produce and promote any tourism, recreational or
17 cultural activity or special event in the district by, but not
18 limited to, advertising, decoration of any public place in the
19 district, promotion of such activity and special events, and
20 furnishing music in any public place;

21 (24) To support business activity and economic development
22 in the district including, but not limited to, the promotion of
23 business activity, development and retention, and the recruitment
24 of developers and businesses;

25 (25) To provide or support training programs for employees
26 of businesses within the district;

27 (26) To provide refuse collection and disposal services
28 within the district;

1 (27) To contract for or conduct economic, planning,
2 marketing or other studies;

3 (28) To repair, restore, or maintain any abandoned cemetery
4 on public or private land within the district; and

5 (29) To partner with a telecommunications company or
6 broadband service provider in order to construct or improve
7 telecommunications facilities which shall be wholly owned and
8 operated by the telecommunications company or broadband service
9 provider, as the terms "telecommunications company" and
10 "telecommunications facilities" are defined in section 386.020
11 and subject to the provisions of section 392.410, that are in an
12 unserved or underserved area, as defined in section 620.2450.
13 Before any facilities are improved or constructed as a result of
14 this section, the area shall be certified as unserved or
15 underserved by the director of broadband development within the
16 department of economic development;

17 (30) To carry out any other powers set forth in sections
18 67.1401 to 67.1571.

19 2. Each district which is located in a blighted area or
20 which includes a blighted area shall have the following
21 additional powers:

22 (1) Within its blighted area, to contract with any private
23 property owner to demolish and remove, renovate, reconstruct, or
24 rehabilitate any building or structure owned by such private
25 property owner; and

26 (2) To expend its revenues or loan its revenues pursuant to
27 a contract entered into pursuant to this subsection, provided
28 that the governing body of the municipality has determined that

1 the action to be taken pursuant to such contract is reasonably
2 anticipated to remediate the blighting conditions and will serve
3 a public purpose.

4 3. Each district shall annually reimburse the municipality
5 for the reasonable and actual expenses incurred by the
6 municipality to establish such district and review annual budgets
7 and reports of such district required to be submitted to the
8 municipality; provided that, such annual reimbursement shall not
9 exceed one and one-half percent of the revenues collected by the
10 district in such year.

11 4. Nothing in sections 67.1401 to 67.1571 shall be
12 construed to delegate to any district any sovereign right of
13 municipalities to promote order, safety, health, morals, and
14 general welfare of the public, except those such police powers,
15 if any, expressly delegated pursuant to sections 67.1401 to
16 67.1571.

17 5. The governing body of the municipality establishing the
18 district shall not decrease the level of publicly funded services
19 in the district existing prior to the creation of the district or
20 transfer the financial burden of providing the services to the
21 district unless the services at the same time are decreased
22 throughout the municipality, nor shall the governing body
23 discriminate in the provision of the publicly funded services
24 between areas included in such district and areas not so
25 included.

26 67.1846. 1. Nothing in sections 67.1830 to 67.1846
27 relieves the political subdivision of any obligations under an
28 existing franchise agreement in effect on May 1, 2001. Nothing

1 in sections 67.1830 to 67.1846 will apply to that portion of any
2 ordinance passed prior to May 1, 2001, which establishes a street
3 degradation fee. Nothing in sections 67.1830 to 67.1846 shall be
4 construed as limiting the authority of county highway engineers
5 or relieving public utility right-of-way users from any
6 obligations set forth in chapters 229 to 231. Nothing in
7 sections 67.1830 to 67.1846 shall be deemed to relieve a public
8 utility right-of-way user of the provisions of an existing
9 franchise, franchise fees, license or other agreement or permit
10 in effect on May 1, 2001. Nothing in sections 67.1830 to 67.1846
11 shall prohibit a political subdivision or public utility
12 right-of-way user from renewing or entering into a new or
13 existing franchise, as long as all other public utility
14 right-of-way users have use of the public right-of-way on a
15 nondiscriminatory basis. Nothing in sections 67.1830 to 67.1846
16 shall prevent a grandfathered political subdivision from enacting
17 new ordinances, including amendments of existing ordinances,
18 charging a public utility right-of-way user a fair and reasonable
19 linear foot fee or antenna fee or from enforcing or renewing
20 existing linear foot ordinances for use of the right-of-way,
21 provided that the public utility right-of-way user either:

22 (1) Is entitled under the ordinance to a credit for any
23 amounts paid as business license taxes or gross receipts taxes;
24 or

25 (2) Is not required by the political subdivision to pay the
26 linear foot fee or antenna fee if the public utility right-of-way
27 user is paying gross receipts taxes, business license fees, or
28 business license taxes that are not nominal and that are imposed

1 specifically on communications-related revenue, services, or
2 equipment.

3

4 For purposes of this section, a "grandfathered political
5 subdivision" is any political subdivision which has, prior to May
6 1, 2001, enacted one or more ordinances reflecting a policy of
7 imposing any linear foot fees on any public utility right-of-way
8 user, including ordinances which were specific to particular
9 public right-of-way users. Any existing ordinance or new
10 ordinance passed by a grandfathered political subdivision
11 providing for payment of the greater of a linear foot fee or a
12 gross receipts tax shall be enforceable only with respect to the
13 linear foot fee.

14 2. A grandfathered political subdivision shall not charge a
15 linear foot fee for use of its right-of-way to a small local
16 exchange telecommunications company, as defined in section
17 386.020; provided that the small local exchange
18 telecommunications company is providing internet access to
19 customers within the rural areas of the state.

20 3. Nothing in sections 67.1830 to 67.1846 shall prohibit a
21 political subdivision from enacting, renewing or enforcing
22 provisions of an ordinance to require a business license tax,
23 sales tax, occupation tax, franchise tax or franchise fee,
24 property tax or other similar tax, to the extent consistent with
25 federal law. Nothing in sections 67.1830 to 67.1846 shall
26 prohibit a political subdivision from enacting, enforcing or
27 renewing provisions of an ordinance to require a gross receipts
28 tax pursuant to chapter 66, chapter 92, or chapter 94. For

1 purposes of this subsection, the term "franchise fee" shall mean
2 "franchise tax".

3 67.5122. Sections 67.5110 to 67.5122 shall expire on
4 January 1, [2021] 2025, except that for small wireless facilities
5 already permitted or collocated on authority poles prior to such
6 date, the rate set forth in section 67.5116 for collocation of
7 small wireless facilities on authority poles shall remain
8 effective for the duration of the permit authorizing the
9 collocation.

10 392.020. 1. The original articles of association shall be
11 recorded in the office of the recorder of deeds of the county in
12 which the corporation is to be located, and then be filed in the
13 office of the secretary of state, who shall carefully preserve
14 the same in his office, and thereupon the subscribers and the
15 persons who, from time to time, shall become stockholders in such
16 company, and their successors, shall be a body politic and
17 corporate, by the name stated in such articles of association,
18 and shall have power to construct, own, operate and maintain
19 lines of telephone and magnetic telegraph between such points as
20 they may from time to time determine, and to make such reasonable
21 charges for the use of the same as they may establish; and shall
22 have power to lease or attach to their lines other telephone or
23 telegraph lines by lease or purchase; and meetings of the
24 stockholders or of the directors of such corporation may be held
25 for the transaction of business as well without as within this
26 state.

27 2. A copy of the articles of association, certified by the
28 secretary of state or his deputy, under the seal of the state,

1 shall be prima facie evidence of the incorporation of such
2 company, and of the facts stated therein. Any such company,
3 through its board of directors, with the consent of the persons
4 holding the larger amount in value of the stock, shall have power
5 to reduce its capital stock to any amount not below the actual
6 cost of construction, and in like manner and with like consent to
7 increase the capital stock from time to time as in their judgment
8 may be necessary, not exceeding an amount which, when fully paid
9 up, shall be required for the business of the company, which
10 consent shall be obtained in the manner prescribed by law.

11 3. Any corporation formed for the purpose of section
12 392.010, or operating under the provisions of subsection 1 of
13 section 351.030, may amend the articles of association to include
14 a statement referencing the corporation's operating designation
15 as described in 26 U.S.C. Section 501(c)(12), as amended.

16 620.2451. Grants awarded under sections 620.2450 to
17 620.2458 shall fund the acquisition and installation of retail
18 broadband internet service at speeds of at least twenty-five
19 megabits per-second download and three megabits per-second
20 upload, but that is scalable to higher speeds. The department
21 shall maintain a record of all federal grants awarded to entities
22 for the purposes of providing, maintaining, and expanding rural
23 broadband in the state of Missouri. In cases in which funds have
24 been awarded by a federal agency but later retained, withheld, or
25 otherwise not distributed to the original grant recipient due to
26 failure to meet performance standards or other criteria, the
27 department shall seek to have the funds awarded to another
28 eligible, qualified Missouri broadband provider.

1 620.2459. Pursuant to section 23.253 of the Missouri sunset
2 act:

3 (1) The provisions of the [new] program authorized under
4 sections 620.2450, 620.2451, 620.2452, 620.2453, 620.2454,
5 620.2455, 620.2456, 620.2457, and 620.2458 shall sunset
6 [automatically three years after August 28, 2018] on June 30,
7 2027, unless reauthorized by an act of the general assembly; and

8 (2) If such program is reauthorized, the program authorized
9 under sections 620.2450, 620.2451, 620.2452, 620.2453, 620.2454,
10 620.2455, 620.2456, 620.2457, and 620.2458 shall sunset
11 automatically six years after the effective date of the
12 reauthorization of sections 620.2450, 620.2451, 620.2452,
13 620.2453, 620.2454, 620.2455, 620.2456, 620.2457, and 620.2458;
14 and

15 (3) Sections 620.2450, 620.2451, 620.2452, 620.2453,
16 620.2454, 620.2455, 620.2456, 620.2457, and 620.2458 shall
17 terminate on September first of the calendar year immediately
18 following the calendar year in which the program authorized under
19 sections 620.2450, 620.2451, 620.2452, 620.2453, 620.2454,
20 620.2455, 620.2456, 620.2457, and 620.2458 is sunset.

21