

SECOND REGULAR SESSION

SENATE BILL NO. 646

100TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR KOENIG.

Pre-filed December 1, 2019, and ordered printed.

ADRIANE D. CROUSE, Secretary.

4098S.01I

AN ACT

To repeal sections 67.1545, 238.207, 238.235, and 238.237, RSMo, and to enact in lieu thereof four new sections relating to certain special taxing districts.

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

Section A. Sections 67.1545, 238.207, 238.235, and 238.237, RSMo, are
2 repealed and four new sections enacted in lieu thereof, to be known as sections
3 67.1545, 238.207, 238.235, and 238.237, to read as follows:

67.1545. 1. Any district formed as a political subdivision may impose by
2 resolution a district sales and use tax on all retail sales made in such district
3 which are subject to taxation pursuant to sections 144.010 to 144.525, except
4 sales of motor vehicles, trailers, boats or outboard motors and sales to or by
5 public utilities and providers of communications, cable, or video services. Any
6 sales and use tax imposed pursuant to this section may be imposed in increments
7 of one-eighth of one percent, up to a maximum of one percent. Such district sales
8 and use tax may be imposed for any district purpose designated by the district
9 in its ballot of submission to [its] qualified voters; except that, no resolution
10 adopted pursuant to this section shall become effective unless the board of
11 directors of the district submits to the qualified voters of the **municipality in**
12 **which the district is located**, by mail-in ballot, a proposal to authorize a sales
13 and use tax pursuant to this section. If a majority of the votes cast by the
14 qualified voters on the proposed sales tax are in favor of the sales tax, then the
15 resolution is adopted. If a majority of the votes cast by the qualified voters are
16 opposed to the sales tax, then the resolution is void.

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

18 Shall the _____ (insert name of district) Community Improvement
19 District impose a community improvement districtwide sales and

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

20 use tax at the maximum rate of _____ (insert amount) for a period
21 of _____ (insert number) years from the date on which such tax is
22 first imposed for the purpose of providing revenue for _____ (insert
23 general description of the purpose)?

24 YES NO

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

28 3. Within ten days after the qualified voters have approved the imposition
29 of the sales and use tax, the district shall, in accordance with section 32.087,
30 notify the director of the department of revenue. The sales and use tax
31 authorized by this section shall become effective on the first day of the second
32 calendar quarter after the director of the department of revenue receives notice
33 of the adoption of such tax.

34 4. The director of the department of revenue shall collect any tax adopted
35 pursuant to this section pursuant to section 32.087.

36 5. In each district in which a sales and use tax is imposed pursuant to
37 this section, every retailer shall add such additional tax imposed by the district
38 to such retailer's sale price, and when so added such tax shall constitute a part
39 of the purchase price, shall be a debt of the purchaser to the retailer until paid
40 and shall be recoverable at law in the same manner as the purchase price.

41 6. In order to allow retailers to collect and report the sales and use tax
42 authorized by this section as well as all other sales and use taxes required by law
43 in the simplest and most efficient manner possible, a district may establish
44 appropriate brackets to be used in the district imposing a tax pursuant to this
45 section in lieu of the brackets provided in section 144.285.

46 7. The penalties provided in sections 144.010 to 144.525 shall apply to
47 violations of this section.

48 8. All revenue received by the district from a sales and use tax imposed
49 pursuant to this section which is designated for a specific purpose shall be
50 deposited into a special trust fund and expended solely for such purpose. Upon
51 the expiration of any sales and use tax adopted pursuant to this section, all funds
52 remaining in the special trust fund shall continue to be used solely for the
53 specific purpose designated in the resolution adopted by the qualified voters. Any
54 funds in such special trust fund which are not needed for current expenditures
55 may be invested by the board of directors pursuant to applicable laws relating to

56 the investment of other district funds.

57 9. A district may repeal by resolution any sales and use tax imposed
58 pursuant to this section before the expiration date of such sales and use tax
59 unless the repeal of such sales and use tax will impair the district's ability to
60 repay any liabilities the district has incurred, moneys the district has borrowed
61 or obligation the district has issued to finance any improvements or services
62 rendered for the district.

63 10. Notwithstanding the provisions of chapter 115, an election for a
64 district sales and use tax under this section shall be conducted in accordance with
65 the provisions of this section.

238.207. 1. Whenever the creation of a district is desired, not less than
2 fifty registered voters from each county partially or totally within the proposed
3 district may file a petition requesting the creation of a district. However, if no
4 persons eligible to be registered voters reside within the district, the owners of
5 record of all of the real property, except public streets, located within the
6 proposed district may file a petition requesting the creation of a district. The
7 petition shall be filed in the circuit court of any county partially or totally within
8 the proposed district.

9 2. Alternatively, the governing body of any local transportation authority
10 within any county in which a proposed project may be located may file a petition
11 in the circuit court of that county, requesting the creation of a district.

12 3. The proposed district area shall be contiguous and may contain all or
13 any portion of one or more municipalities and counties; provided:

14 (1) Property separated only by public streets, easements or rights-of-way
15 shall be considered contiguous;

16 (2) In the case of a district formed pursuant to a petition filed by the
17 owners of record of all of the real property located within the proposed district,
18 the proposed district area need not contain contiguous properties if:

19 (a) The petition provides that the only funding method for project costs
20 will be a sales tax;

21 (b) The court finds that all of the real property located within the
22 proposed district will benefit by the projects to be undertaken by the district; and

23 (c) Each parcel within the district is within five miles of every other
24 parcel; and

25 (3) In the case of a district created pursuant to subsection 5 of this
26 section, property separated only by public streets, easements, or rights-of-way or

27 connected by a single public street, easement, or right-of-way shall be considered
28 contiguous.

29 4. The petition shall set forth:

30 (1) The name, voting residence and county of residence of each individual
31 petitioner, or, if no persons eligible to be registered voters reside within the
32 proposed district, the name and address of each owner of record of real property
33 located within the proposed district, or shall recite that the petitioner is the
34 governing body of a local transportation authority acting in its official capacity;

35 (2) The name and address of each respondent. Respondents must include
36 the commission and each affected local transportation authority within the
37 proposed district, except a petitioning local transportation authority;

38 (3) A specific description of the proposed district boundaries including a
39 map illustrating such boundaries;

40 (4) A general description of each project proposed to be undertaken by
41 that district, including a description of the approximate location of each project;

42 (5) The estimated project costs and the anticipated revenues to be
43 collected from the project;

44 (6) The name of the proposed district;

45 (7) The number of members of the board of directors of the proposed
46 district, which shall be not less than five or more than fifteen;

47 (8) A statement that the terms of office of initial board members shall be
48 staggered in approximately equal numbers to expire in one, two or three years;

49 (9) If the petition was filed by registered voters or by a governing body,
50 a request that the question be submitted to the qualified voters within the limits
51 of the proposed district whether they will establish a transportation development
52 district to develop a specified project or projects;

53 (10) A proposal for funding the district initially, pursuant to the authority
54 granted in sections 238.200 to 238.275, together with a request that the funding
55 proposal be submitted to the qualified voters within the [limits of] **municipality**
56 **in which** the proposed district **is located**; provided, however, the funding
57 method of special assessments may also be approved as provided in subsection 1
58 of section 238.230;

59 (11) A statement that the proposed district shall not be an undue burden
60 on any owner of property within the district and is not unjust or unreasonable;
61 and

62 (12) Details of the budgeted expenditures, including estimated

63 expenditures for real physical improvements, estimated land acquisition
64 expenses, estimated expenses for professional services and estimated interest
65 charges.

66 5. (1) As an alternative to the methods described in subsections 1 and 2
67 of this section, if two or more local transportation authorities have adopted
68 resolutions calling for the joint establishment of a district, the governing body of
69 any one such local transportation authority may file a petition in the circuit court
70 of any county in which the proposed project is located requesting the creation of
71 a district; or, if not less than fifty registered voters from each of two or more
72 counties sign a petition calling for the joint establishment of a district for the
73 purpose of developing a project that lies in whole or in part within those same
74 counties, the petition may be filed in the circuit court of any of those counties in
75 which not less than fifty registered voters have signed the petition.

76 (2) The proposed district area shall be contiguous and may contain all or
77 any portion of one or more municipalities and counties. Property separated only
78 by public streets, easements, or rights-of-way or connected by a single public
79 street, easement, or right-of-way shall be considered contiguous.

80 (3) The petition shall set forth:

81 (a) That the petitioner is the governing body of a local transportation
82 authority acting in its official capacity; or, if the petition was filed by obtaining
83 the signatures of not less than fifty registered voters in each of two or more
84 counties, it shall set forth the name, voting residence, and county of residence of
85 each individual petitioner;

86 (b) The name of each local transportation authority within the proposed
87 district. The resolution of the governing body of each local transportation
88 authority calling for the joint establishment of the district shall be attached to
89 the petition;

90 (c) The name and address of each respondent. Respondents must include
91 the commission and each affected local transportation authority within the
92 proposed district, except a petitioning local transportation authority;

93 (d) A specific description of the proposed district boundaries including a
94 map illustrating such boundaries;

95 (e) A general description of each project proposed to be undertaken by the
96 district, including a description of the approximate location of each project;

97 (f) The name of the proposed district;

98 (g) The number of members of the board of directors of the proposed

99 district;

100 (h) A request that the question be submitted to the qualified voters within
101 the limits of the proposed district whether they will establish a transportation
102 development district to develop the projects described in the petition;

103 (i) A proposal for funding the district initially, pursuant to the authority
104 granted in sections 238.200 to 238.275, together with a request that the
105 imposition of the funding proposal be submitted to the qualified voters residing
106 within [limits of] **municipality in which** the proposed district **is located**;
107 provided, however, the funding method of special assessments may also be
108 approved as provided in subsection 1 of section 238.230; and

109 (j) A statement that the proposed district shall not be an undue burden
110 on any owner of property within the district and is not unjust or unreasonable.

238.235. 1. (1) Any transportation development district may by
2 resolution impose a transportation development district sales tax on all retail
3 sales made in such transportation development district which are subject to
4 taxation pursuant to the provisions of sections 144.010 to 144.525, except such
5 transportation development district sales tax shall not apply to the sale or use of
6 motor vehicles, trailers, boats or outboard motors nor to all sales of electricity or
7 electrical current, water and gas, natural or artificial, nor to sales of service to
8 telephone subscribers, either local or long distance. Such transportation
9 development district sales tax may be imposed for any transportation
10 development purpose designated by the transportation development district in its
11 ballot of submission to its qualified voters, except that no resolution enacted
12 pursuant to the authority granted by this section shall be effective unless:

13 (a) The board of directors of the transportation development district
14 submits to the qualified voters of the **municipality in which the** transportation
15 development district **is located** a proposal to authorize the board of directors of
16 the transportation development district to impose or increase the levy of an
17 existing tax pursuant to the provisions of this section; or

18 (b) The voters approved the question certified by the petition filed
19 pursuant to subsection 5 of section 238.207.

20 (2) If the transportation district submits to the qualified voters of the
21 **municipality in which the** transportation development district **is located** a
22 proposal to authorize the board of directors of the transportation development
23 district to impose or increase the levy of an existing tax pursuant to the
24 provisions of paragraph (a) of subdivision (1) of this subsection, the ballot of

25 submission shall contain, but need not be limited to, the following language:

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

32 YES NO

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

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

46 (3) The sales tax authorized by this section shall become effective on the
47 first day of the second calendar quarter after the department of revenue receives
48 notification of the tax.

49 (4) In each transportation development district in which a sales tax has
50 been imposed in the manner provided by this section, every retailer shall add the
51 tax imposed by the transportation development district pursuant to this section
52 to the retailer's sale price, and when so added such tax shall constitute a part of
53 the price, shall be a debt of the purchaser to the retailer until paid, and shall be
54 recoverable at law in the same manner as the purchase price.

55 (5) In order to permit sellers required to collect and report the sales tax
56 authorized by this section to collect the amount required to be reported and
57 remitted, but not to change the requirements of reporting or remitting tax or to
58 serve as a levy of the tax, and in order to avoid fractions of pennies, the
59 transportation development district may establish appropriate brackets which
60 shall be used in the district imposing a tax pursuant to this section in lieu of

61 those brackets provided in section 144.285.

62 (6) All revenue received by a transportation development district from the
63 tax authorized by this section which has been designated for a certain
64 transportation development purpose shall be deposited in a special trust fund and
65 shall be used solely for such designated purpose. Upon the expiration of the
66 period of years approved by the qualified voters pursuant to subdivision (2) of this
67 subsection or if the tax authorized by this section is repealed pursuant to
68 subsection 6 of this section, all funds remaining in the special trust fund shall
69 continue to be used solely for such designated transportation development
70 purpose. Any funds in such special trust fund which are not needed for current
71 expenditures may be invested by the board of directors in accordance with
72 applicable laws relating to the investment of other transportation development
73 district funds.

74 (7) The sales tax may be imposed in increments of one-eighth of one
75 percent, up to a maximum of one percent on the receipts from the sale at retail
76 of all tangible personal property or taxable services at retail within the
77 transportation development district adopting such tax, if such property and
78 services are subject to taxation by the state of Missouri pursuant to the
79 provisions of sections 144.010 to 144.525, except such transportation development
80 district sales tax shall not apply to the sale or use of motor vehicles, trailers,
81 boats or outboard motors nor to public utilities. Any transportation development
82 district sales tax imposed pursuant to this section shall be imposed at a rate that
83 shall be uniform throughout the district.

84 2. The resolution imposing the sales tax pursuant to this section shall
85 impose upon all sellers a tax for the privilege of engaging in the business of
86 selling tangible personal property or rendering taxable services at retail to the
87 extent and in the manner provided in sections 144.010 to 144.525, and the rules
88 and regulations of the director of revenue issued pursuant thereto; except that
89 the rate of the tax shall be the rate imposed by the resolution as the sales tax and
90 the tax shall be reported and returned to and collected by the transportation
91 development district.

92 3. On and after the effective date of any tax imposed pursuant to this
93 section, the director of revenue shall perform all functions incident to the
94 administration, collection, enforcement, and operation of the tax, and the director
95 of revenue shall collect, in addition to all other sales taxes imposed by law, the
96 additional tax authorized pursuant to this section. The tax imposed pursuant to

97 this section and the taxes imposed pursuant to all other laws of the state of
98 Missouri shall be collected together and reported upon such forms and pursuant
99 to such administrative rules and regulations as may be prescribed by the director
100 of revenue.

101 4. (1) All applicable provisions contained in sections 144.010 to 144.525,
102 governing the state sales tax, sections 32.085 and 32.087 and section 32.057, the
103 uniform confidentiality provision, shall apply to the collection of the tax imposed
104 by this section, except as modified in this section.

105 (2) All exemptions granted to agencies of government, organizations,
106 persons and to the sale of certain articles and items of tangible personal property
107 and taxable services pursuant to the provisions of sections 144.010 to 144.525 are
108 hereby made applicable to the imposition and collection of the tax imposed by this
109 section.

110 (3) The same sales tax permit, exemption certificate and retail certificate
111 required by sections 144.010 to 144.525 for the administration and collection of
112 the state sales tax shall satisfy the requirements of this section, and no
113 additional permit or exemption certificate or retail certificate shall be required;
114 except that the transportation development district may prescribe a form of
115 exemption certificate for an exemption from the tax imposed by this section.

116 (4) All discounts allowed the retailer pursuant to the provisions of the
117 state sales tax laws for the collection of and for payment of taxes pursuant to
118 such laws are hereby allowed and made applicable to any taxes collected pursuant
119 to the provisions of this section.

120 (5) The penalties provided in section 32.057 and sections 144.010 to
121 144.525 for violation of those sections are hereby made applicable to violations
122 of this section.

123 (6) For the purpose of a sales tax imposed by a resolution pursuant to this
124 section, all retail sales except retail sales of motor vehicles shall be deemed to be
125 consummated at the place of business of the retailer unless the tangible personal
126 property sold is delivered by the retailer or the retailer's agent to an out-of-state
127 destination or to a common carrier for delivery to an out-of-state destination. In
128 the event a retailer has more than one place of business in this state which
129 participates in the sale, the sale shall be deemed to be consummated at the place
130 of business of the retailer where the initial order for the tangible personal
131 property is taken, even though the order must be forwarded elsewhere for
132 acceptance, approval of credit, shipment or billing. A sale by a retailer's

133 employee shall be deemed to be consummated at the place of business from which
134 the employee works.

135 5. All sales taxes received by the transportation development district shall
136 be deposited by the director of revenue in a special fund to be expended for the
137 purposes authorized in this section. The director of revenue shall keep accurate
138 records of the amount of money which was collected pursuant to this section, and
139 the records shall be open to the inspection of officers of each transportation
140 development district and the general public.

141 6. (1) No transportation development district imposing a sales tax
142 pursuant to this section may repeal or amend such sales tax unless such repeal
143 or amendment will not impair the district's ability to repay any liabilities which
144 it has incurred, money which it has borrowed or revenue bonds, notes or other
145 obligations which it has issued or which have been issued by the commission or
146 any local transportation authority to finance any project or projects.

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

166 7. Notwithstanding any provision of sections 99.800 to 99.865 and this
167 section to the contrary, the sales tax imposed by a district whose project is a
168 public mass transportation system shall not be considered economic activity taxes

169 as such term is defined under sections 99.805 and 99.918 and shall not be subject
170 to allocation under the provisions of subsection 3 of section 99.845, or subsection
171 4 of section 99.957.

238.237. 1. If approved by a majority of the qualified voters voting on the
2 question in the **municipality in which the district is located**, the district may
3 charge and collect tolls or fees for the use of a project. The board may charge a
4 lower toll rate or fee than that amount approved by the [district] voters, and may
5 increase that lower toll rate or fee to a level not exceeding the toll or fee rate
6 ceiling without voter approval. Toll rates or fees for the use of the same project
7 may vary at the election of the board, depending upon the type or nature of the
8 user, or the type or nature of the use.

9 2. The ballot of submission shall be substantially in the following form:
10 Shall the _____ Transportation Development District be
11 authorized to charge tolls or fees in amounts not to exceed those
12 given below:

13	Maximum Toll or Fee	Toll or Fee Description
14	(Insert amount)	(Insert a brief description of the toll or
15		fee, distinguishing it from other tolls or
16		fees to be charged on the same project)
17	(Insert amount)	(Describe the next toll or fee charged)
18	(Etc.)	(Etc.)

19 for the purpose of providing revenue for the development of a
20 project (or projects) in the district (insert general description of the
21 project or projects, if necessary)?

22 YES NO

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

26 3. To construct a toll facility, a district may relocate an existing state
27 highway, subject to approval by the commission, or an existing local public street
28 or road, subject to approval by the local transportation authority having control
29 and jurisdiction over such street or road. A district shall not incorporate an
30 existing free public street, road, or highway into a district project that will be
31 subject to tolls.

