

FIRST REGULAR SESSION

[CORRECTED]

[TRULY AGREED TO AND FINALLY PASSED]

SENATE COMMITTEE SUBSTITUTE FOR

HOUSE BILL NO. 202

91ST GENERAL ASSEMBLY

0668S.05T

2001

AN ACT

To repeal sections 238.207, 238.216, 238.220, 238.235 and 238.252, RSMo 2000, relating to transportation development districts, and to enact in lieu thereof five new sections relating to the same subject, with an emergency clause.

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

Section A. Sections 238.207, 238.216, 238.220, 238.235 and 238.252, RSMo 2000, are
2 repealed and five new sections enacted in lieu thereof, to be known as sections 238.207, 238.216,
3 238.220, 238.235 and 238.252, to read as follows:

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

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

10 3. The proposed district area shall be contiguous and may contain all or any portion of
11 one or more municipalities and counties. **Property separated only by public streets shall be**
12 **considered contiguous.**

13 4. The petition shall set forth:

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

14 (1) The name, voting residence and county of residence of each individual petitioner, or,
15 if no persons eligible to be registered voters reside within the proposed district, the name and
16 address of each owner of record of real property located within the proposed district, or shall
17 recite that the petitioner is the governing body of [that city or county] **a local transportation**
18 **authority** acting in its official capacity;

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

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

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

26 (5) The name of the proposed district;

27 (6) The number of members of the board of directors of the proposed district, which shall
28 be not less than five or more than fifteen;

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

31 (8) If the petition was filed by registered voters or by a governing body, a request that
32 the question be submitted to the qualified voters [residing] within the limits of the proposed
33 district whether they will establish a transportation development district to develop a specified
34 project or projects;

35 (9) A proposal for funding the district initially, pursuant to the authority granted in
36 sections 238.200 to 238.275, together with a request that the funding proposal be submitted to
37 the qualified voters residing within the limits of the proposed district; provided, however, the
38 funding method of special assessments may also be approved as provided in subsection 1 of
39 section 238.230; and

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

238.216. 1. Except as otherwise provided in section 238.220 with respect to the election
2 of directors, in order to call any election required or allowed under sections 238.200 to 238.275,
3 the circuit court shall:

4 (1) Order the county clerk to cause the questions to appear on the ballot on the next
5 regularly scheduled general, primary or special election day, which date shall be the same in each
6 county or portion of a county included within and voting upon the proposed district; [or]

7 (2) If the election is to be a mail-in election, specify a date on which ballots for the
8 election shall be mailed, which date shall be a Tuesday, and shall be not earlier than the eighth

9 Tuesday from the issuance of the order, and shall not be on the same day as an election
10 conducted under the provisions of chapter 115, RSMo; or

11 **(3) If all the owners of property in the district joined in the petition for formation**
12 **of the district, such owners may cast their ballot by unanimous petition approving any**
13 **measure submitted to them as voters pursuant to this chapter. Each owner shall receive**
14 **one vote per acre owned. Fractional votes shall be allowed. The petition shall be submitted**
15 **to the circuit court clerk who shall verify the authenticity of all signatures thereon. The**
16 **filing of a unanimous petition shall constitute an election under sections 238.200 to 238.275**
17 **and the results of said election shall be entered pursuant to subsection 6 of section 238.216.**

18 2. Application for a ballot shall be conducted as follows:

- 19 (1) Only qualified voters shall be entitled to apply for a ballot;
- 20 (2) Such persons shall apply with the clerk of the circuit court in which the petition was
21 filed;
- 22 (3) Each person applying shall provide:
 - 23 (a) Such person's name, address, mailing address, and phone number;
 - 24 (b) An authorized signature; and
 - 25 (c) Evidence that such person is entitled to vote. Such evidence shall be:
 - 26 a. For resident individuals, proof of registration from the election authority;
 - 27 b. For owners of real property, a tax receipt or deed or other document which evidences
28 ownership, and identifies the real property by location;
- 29 (4) No person shall apply later than the fourth Tuesday before the date for mailing ballots
30 specified in the circuit court's order.

31 3. If the election is to be a mail-in election, the circuit court shall mail a ballot to each
32 qualified voter who applied for a ballot pursuant to subsection 2 of this section along with a
33 return addressed envelope directed to the circuit court clerk's office with a sworn affidavit on the
34 reverse side of such envelope for the voter's signature. Such affidavit shall be in the following
35 form:

36 I hereby declare under penalties of perjury that I am qualified to vote, or to affix my
37 authorized signature in the name of an entity which is entitled to vote, in this election.

38 Subscribed and sworn to before me this day of, [19] 20.....

39
40	Authorized Signature
41
42	Printed Name of Voter
43	Signature of notary or other
44	officer authorized to administer oaths.

45

46 Mailing Address of Voter

47 (if different)

48 4. Except as otherwise provided in subsection 2 of section 238.220, with respect to the
49 election of directors, each qualified voter shall have one vote. Each voter which is not an
50 individual shall determine how to cast its vote as provided for in its articles of incorporation,
51 articles of organization, articles of partnership, bylaws, or other document which sets forth an
52 appropriate mechanism for the determination of the entity's vote. If a voter has no such
53 mechanism, then its vote shall be cast as determined by a majority of the persons who run the
54 day-to-day affairs of the voter. Each voted ballot shall be signed with the authorized signature.

55 5. Mail-in voted ballots shall be returned to the circuit court clerk's office by mail or
56 hand delivery no later than 5:00 p.m. on the sixth Tuesday after the date for mailing the ballots
57 as set forth in the circuit court's order. The circuit court's clerk shall transmit all voted ballots
58 to a team of judges of not less than four, with an equal number from each of the two major
59 political parties. The judges shall be selected by the circuit court from lists compiled by the
60 election authority. Upon receipt of the voted ballots, the judges shall verify the authenticity of
61 the ballots, canvass the votes, and certify the results. Certification by the election judges shall
62 be final and shall be immediately transmitted to the circuit court. Any qualified voter who voted
63 in such election may contest the result in the same manner as provided in chapter 115, RSMo.

64 6. The results of the election shall be entered upon the records of the circuit court of the
65 county in which the petition was filed. Also, a certified copy thereof shall be filed with the
66 county clerk of each county in which a portion of the proposed district lies, who shall cause the
67 same to be spread upon the records of the county commission.

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

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

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

12 (3) The director or directors to be elected shall be elected at large. The candidate
13 receiving the most votes from qualified voters shall be elected to the position having the longest

14 term, the second highest total votes elected to the position having the next longest term, and so
15 forth. Each initial director shall serve the one-, two- or three-year term to which he **or she** was
16 elected, and until [his] a successor is duly elected and qualified. Each successor director shall
17 serve a three-year term. The directors shall nominate and elect an interim director to complete
18 any unexpired term of a director caused by resignation or disqualification; and

19 (4) Each director shall be a resident of the district. Directors shall be registered voters
20 at least twenty-one years of age.

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

23 (1) Within thirty days after the district has been declared organized, the circuit clerk of
24 the county in which the petition was filed shall, upon giving notice by causing publication to be
25 made once a week for two consecutive weeks in a newspaper of general circulation in the county,
26 the last publication of which shall be at least ten days before the day of the meeting required by
27 this section, call a meeting of the owners of real property within the district at a day and hour
28 specified in a public place in the county in which the petition was filed for the purpose of
29 electing a board of not less than five and not more than fifteen directors, to be composed of
30 owners or representatives of owners of real property in the district; **provided that, if all the**
31 **owners of property in the district joined in the petition for formation of the district, such**
32 **meeting may be called by order of the court without further publication;**

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

37 (3) The one-third of the initial board members receiving the most votes shall be elected
38 to positions having a term of three years. The one-third of initial board members receiving the
39 next highest number of votes shall be elected to positions having a term of two years. The lowest
40 one-third of initial board members receiving sufficient votes shall be elected to positions having
41 a term of one year. Each initial director shall serve the term to which he **or she** was elected, and
42 until [his] a successor is duly elected and qualified. Successor directors shall be elected in the
43 same manner as the initial directors at a meeting of the real property owners called by the board.
44 Each successor director shall serve a three-year term. The directors shall nominate and elect an
45 interim director to complete any unexpired term of a director caused by resignation or
46 disqualification;

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

48 3. The commission shall appoint one or more advisors to the board, who shall have no
49 vote but shall have the authority to participate in all board meetings and discussions, whether

50 open or closed, and shall have access to all records of the district and its board of directors.

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

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

15 (2) The ballot of submission shall contain, but need not be limited to, the following
16 language:

17 Shall the transportation development district of (transportation development
18 district's name) impose a transportation development district-wide sales tax at the rate of
19 (insert amount) for a period of (insert number) years from the date on which such tax is
20 first imposed for the purpose of (insert transportation development purpose)?

21 YES NO

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

24 If a majority of the votes cast on the proposal by the qualified voters voting thereon are in favor
25 of the proposal, then the resolution and any amendments thereto shall be in effect. If a majority
26 of the votes cast by the qualified voters voting are opposed to the proposal, then the board of
27 directors of the transportation development district shall have no power to impose the sales tax
28 authorized by this section unless and until the board of directors of the transportation
29 development district shall again have submitted another proposal to authorize it to impose the
30 sales tax pursuant to the provisions of this section and such proposal is approved by a majority
31 of the qualified voters voting thereon.

32 (3) The sales tax authorized by this section shall become effective on the first day of the
33 month following adoption of the tax by the qualified voters.

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

39 (5) In order to permit sellers required to collect and report the sales tax authorized by this
40 section to collect the amount required to be reported and remitted, but not to change the
41 requirements of reporting or remitting tax or to serve as a levy of the tax, and in order to avoid
42 fractions of pennies, the transportation development district may establish appropriate brackets
43 which shall be used in the district imposing a tax pursuant to this section in lieu of those brackets
44 provided in section 144.285, RSMo.

45 (6) All revenue received by a transportation development district from the tax authorized
46 by this section which has been designated for a certain transportation development purpose shall
47 be deposited in a special trust fund and shall be used solely for such designated purpose. Upon
48 the expiration of the period of years approved by the qualified voters pursuant to subdivision (2)
49 of this subsection or if the tax authorized by this section is repealed pursuant to subsection 6 of
50 this section, all funds remaining in the special trust fund shall continue to be used solely for such
51 designated transportation development purpose. Any funds in such special trust fund which are
52 not needed for current expenditures may be invested by the board of directors in accordance with
53 applicable laws relating to the investment of other transportation development district funds.

54 (7) The sales tax may be imposed [at a rate] **in increments** of one-eighth of one percent,
55 [one-fourth of one percent, three-eighths of one percent, one-half of one percent or one] **up to**
56 **a maximum of one** percent on the receipts from the sale at retail of all tangible personal property
57 or taxable services at retail within the transportation development district adopting such tax, if
58 such property and services are subject to taxation by the state of Missouri pursuant to the
59 provisions of sections 144.010 to 144.525, RSMo, except such transportation development
60 district sales tax shall not apply to the sale or use of motor vehicles, trailers, boats or outboard
61 motors nor to public utilities. Any transportation development district sales tax imposed
62 pursuant to this section shall be imposed at a rate that shall be uniform throughout the district.

63 2. The resolution imposing the sales tax pursuant to this section shall impose upon all
64 sellers a tax for the privilege of engaging in the business of selling tangible personal property or
65 rendering taxable services at retail to the extent and in the manner provided in sections 144.010
66 to 144.525, RSMo, and the rules and regulations of the director of revenue issued pursuant
67 thereto; except that the rate of the tax shall be the rate imposed by the resolution as the sales tax

68 and the tax shall be reported and returned to and collected by the transportation development
69 district.

70 3. On and after the effective date of any tax imposed pursuant to this section, the
71 transportation development district shall perform all functions incident to the administration,
72 collection, enforcement, and operation of the tax. The tax imposed pursuant to this section shall
73 be collected and reported upon such forms and under such administrative rules and regulations
74 as may be prescribed by the transportation development district.

75 4. (1) All applicable provisions contained in sections 144.010 to 144.525, RSMo,
76 governing the state sales tax, sections 32.085 and 32.087, RSMo, and section 32.057, RSMo, the
77 uniform confidentiality provision, shall apply to the collection of the tax imposed by this section,
78 except as modified in this section.

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

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

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

91 (5) The penalties provided in section 32.057, RSMo, and sections 144.010 to 144.525,
92 RSMo, for violation of those sections are hereby made applicable to violations of this section.

93 (6) For the purpose of a sales tax imposed by a resolution pursuant to this section, all
94 retail sales except retail sales of motor vehicles shall be deemed to be consummated at the place
95 of business of the retailer unless the tangible personal property sold is delivered by the retailer
96 or the retailer's agent to an out-of-state destination or to a common carrier for delivery to an
97 out-of-state destination. In the event a retailer has more than one place of business in this state
98 which participates in the sale, the sale shall be deemed to be consummated at the place of
99 business of the retailer where the initial order for the tangible personal property is taken, even
100 though the order must be forwarded elsewhere for acceptance, approval of credit, shipment or
101 billing. A sale by a retailer's employee shall be deemed to be consummated at the place of
102 business from which the employee works.

103 5. All sales taxes collected by the transportation development district shall be deposited

104 by the transportation development district in a special fund to be expended for the purposes
105 authorized in this section. The transportation development district shall keep accurate records
106 of the amount of money which was collected pursuant to this section, and the records shall be
107 open to the inspection of officers of each transportation development district and the general
108 public.

109 6. (1) No transportation development district imposing a sales tax pursuant to this
110 section may repeal or amend such sales tax unless such repeal or amendment will not impair the
111 district's ability to repay any liabilities which it has incurred, money which it has borrowed or
112 revenue bonds, notes or other obligations which it has issued or which have been issued by the
113 commission or any local transportation authority to finance any project or projects.

114 (2) Whenever the board of directors of any transportation development district in which
115 a transportation development sales tax has been imposed in the manner provided by this section
116 receives a petition, signed by ten percent of the qualified voters calling for an election to repeal
117 such transportation development sales tax, the board of directors shall, if such repeal will not
118 impair the district's ability to repay any liabilities which it has incurred, money which it has
119 borrowed or revenue bonds, notes or other obligations which it has issued or which have been
120 issued by the commission or any local transportation authority to finance any project or projects,
121 submit to the qualified voters of such transportation development district a proposal to repeal the
122 transportation development sales tax imposed pursuant to the provisions of this section. If a
123 majority of the votes cast on the proposal by the qualified voters voting thereon are in favor of
124 the proposal to repeal the transportation development sales tax, then the resolution imposing the
125 transportation development sales tax, along with any amendments thereto, is repealed. If a
126 majority of the votes cast by the qualified voters voting thereon are opposed to the proposal to
127 repeal the transportation development sales tax, then the ordinance or resolution imposing the
128 transportation development sales tax, along with any amendments thereto, shall remain in effect.

129 238.252. In addition to all other powers granted by sections 238.200 to 238.275 the
130 district shall have the following general powers:

131 (1) To sue and be sued in its own name, and to receive service of process, which shall
132 be served upon the district secretary;

133 (2) To fix compensation of its employees and contractors. All construction contracts in
134 excess of five thousand dollars between the district and any private person, firm, or corporation
135 shall be competitively bid and shall be awarded to the lowest and best bidder;

136 (3) To purchase any **real or** personal property necessary or convenient for its activities.
137 All outright purchases of personal property in excess of one thousand dollars between the district
138 and any private person, firm or corporation shall be competitively bid and shall be awarded to
139 the lowest and best bidder;

140 (4) To collect and disburse funds for its activities; and

141 (5) To exercise such other implied powers necessary or convenient for the district to
142 accomplish its purposes which are not inconsistent with its express powers.

143 Section B. Because transportation districts help reduce traffic congestion and improve
144 overall highway safety, the repeal and reenactment of sections 238.207, 238.216, 238.220,
145 238.235 and 238.252 of this act is deemed necessary for the immediate preservation of the public
146 health, welfare, peace and safety, and is hereby declared to be an emergency act within the
147 meaning of the constitution, and the repeal and reenactment of sections 238.207, 238.216,
148 238.220, 238.235 and 238.252 of this act shall be in full force and effect upon its passage and
149 approval.