

SECOND REGULAR SESSION

[PERFECTED]

HOUSE COMMITTEE SUBSTITUTE FOR

HOUSE BILL NO. 1865

96TH GENERAL ASSEMBLY

6084H.03P

D. ADAM CRUMBLISS, Chief Clerk

AN ACT

To repeal sections 67.463, 67.469, and 67.1305, RSMo, and to enact in lieu thereof eight new sections relating solely to due diligence given in consideration of economic development incentives.

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

Section A. Sections 67.463, 67.469, and 67.1305, RSMo, are repealed and eight new sections enacted in lieu thereof, to be known as sections 67.095, 67.463, 67.469, 67.1305, 620.007, 620.009, 620.019, and 1, to read as follows:

67.095. 1. A political subdivision shall hold a public hearing on the issuance of any of the political subdivision's bonds that have a pledge of future appropriations securing the bond's debt service before issuing any such bond. Notice of the public hearing shall be published once each week for two consecutive weeks in a newspaper of general circulation located in the political subdivision and qualified to publish legal notices under section 493.050. If there is no such newspaper located in the political subdivision, the notice of public hearing shall be published in a newspaper of general circulation located in the county where the political subdivision is located and qualified under section 493.050. If there is no such newspaper in the county, the notice of public hearing shall be published in a newspaper of general circulation located in an adjoining county and qualified under section 493.080. The last insertion of the notice shall not be less than ten days before the date stated for the public hearing.

2. Such notice provided pursuant to this section shall inform the public that:

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

14 **(1) Issuance of the bond may result in adverse consequences for the political**
15 **subdivision, including a reduction in the political subdivision's credit rating or an increase**
16 **in the cost of future borrowing by the political subdivision; and**

17 **(2) That a successful bond may have a positive impact on the community.**

18 **3. Any political subdivision holding a public hearing as provided in subsection 1**
19 **of this section shall allow public testimony and such hearing shall be held at a regularly**
20 **scheduled meeting of the governing body of the political subdivision.**

21 **4. This section shall not apply to refinancing of current indebtedness.**

22 **5. This section shall not apply to a political subdivision with a population greater**
23 **than three hundred thousand according to the latest decennial census that, pursuant to**
24 **either a charter or other ballot measure approved by its voters, has enacted a policy that**
25 **reflects best practices for the prudent use of debt, including bonds, and the use of economic**
26 **incentives, that contains, at a minimum, the following components:**

27 **(1) Use of an annual appropriation pledge;**

28 **(2) Debt capacity;**

29 **(3) Use of third-party professionals;**

30 **(4) Structuring and marketing of the bonds; and**

31 **(5) Management of credit ratings.**

67.463. 1. At the hearing to consider the proposed improvements and assessments, the
2 governing body shall hear and pass upon all objections to the proposed improvements and
3 proposed assessments, if any, and may amend the proposed improvements, and the plans and
4 specifications therefor, or assessments as to any property, and thereupon by ordinance or
5 resolution the governing body of the city or county shall order that the improvement be made and
6 direct that financing for the cost thereof be obtained as provided in sections 67.453 to 67.475.

7 2. After construction of the improvement has been completed in accordance with the
8 plans and specifications therefor, the governing body shall compute the final costs of the
9 improvement and apportion the costs among the property benefitted by such improvement in
10 such equitable manner as the governing body shall determine, charging each parcel of property
11 with its proportionate share of the costs, and by resolution or ordinance, assess the final cost of
12 the improvement or the amount of general obligation bonds issued or to be issued therefor as
13 special assessments against the property described in the assessment roll.

14 3. After the passage or adoption of the ordinance or resolution assessing the special
15 assessments, the city clerk or county clerk shall mail a notice to each property owner within the
16 district which sets forth a description of each parcel of real property to be assessed which is
17 owned by such owner, the special assessment assigned to such property, and a statement that the
18 property owner may pay such assessment in full, together with interest accrued thereon from the

19 effective date of such ordinance or resolution, on or before a specified date determined by the
20 effective date of the ordinance or resolution, or may pay such assessment in annual installments
21 as provided in subsection 4 of this section.

22 4. The special assessments shall be assessed upon the property included therein
23 concurrent with general property taxes, and shall be payable in substantially equal annual
24 installments for a duration stated in the ballot measure prescribed in subsection 2 of section
25 67.457 or in the petition prescribed in subsection 3 of section 67.457, and, if authorized, an
26 assessment in each year thereafter levied and collected in the same manner with the proceeds
27 thereof used solely for maintenance of the improvement, taking into account such assessments
28 and interest thereon, as the governing body determines. The first installment shall be payable
29 after the first collection of general property taxes following the adoption of the assessment
30 ordinance or resolution unless such ordinance or resolution was adopted and certified too late
31 to permit its collection at such time. All assessments shall bear interest at such rate as the
32 governing body determines, not to exceed the rate permitted for bonds by section 108.170.
33 Interest on the assessment between the effective date of the ordinance or resolution assessing the
34 assessment and the date the first installment is payable shall be added to the first installment.
35 The interest for one year on all unpaid installments shall be added to each subsequent installment
36 until paid. In the case of a special assessment by a city, all of the installments, together with the
37 interest accrued or to accrue thereon, may be certified by the city clerk to the county clerk in one
38 instrument at the same time. Such certification shall be good for all of the installments, and the
39 interest thereon payable as special assessments.

40 5. Special assessments shall be collected and paid over to the city treasurer or county
41 treasurer in the same manner as taxes of the city or county are collected and paid. In any county
42 [of the first classification with more than one hundred thirty-five thousand four hundred but
43 fewer than one hundred thirty-five thousand five hundred inhabitants], the county collector may
44 collect a fee as prescribed by section 52.260 for collection of assessments under this section.

67.469. A special assessment authorized under the provisions of sections 67.453 to
2 67.475 shall be a lien, from the date of the assessment, on the property against which it is
3 assessed on behalf of the city or county assessing the same to the same extent as a tax upon real
4 property. The lien may be foreclosed in the same manner as a tax upon real property by land tax
5 sale pursuant to chapter 140 or, **if applicable to that county, chapter 141, or**, [by judicial
6 foreclosure proceeding,] at the option of the governing body, **by judicial foreclosure**
7 **proceeding**. Upon the foreclosure of any such lien, whether by land tax sale or by judicial
8 foreclosure proceeding, the entire remaining assessment may become due and payable and may
9 be recoverable in such foreclosure proceeding at the option of the governing body.

67.1305. 1. As used in this section, the term "city" shall mean any incorporated city,
2 town, or village.

3 2. In lieu of the sales taxes authorized under sections 67.1300 and 67.1303, the
4 governing body of any city or county may impose, by order or ordinance, a sales tax on all retail
5 sales made in the city or county which are subject to sales tax under chapter 144. The tax
6 authorized in this section shall not be more than one-half of one percent. The order or ordinance
7 imposing the tax shall not become effective unless the governing body of the city or county
8 submits to the voters of the city or county at any citywide, county or state general, primary or
9 special election a proposal to authorize the governing body to impose a tax under this section.
10 The tax authorized in this section shall be in addition to all other sales taxes imposed by law, and
11 shall be stated separately from all other charges and taxes. The tax authorized in this section
12 shall not be imposed by any city or county that has imposed a tax under section 67.1300 or
13 67.1303 unless the tax imposed under those sections has expired or been repealed.

14 3. The ballot of submission for the tax authorized in this section shall be in substantially
15 the following form:

16 Shall (insert the name of the city or county) impose a sales tax at a rate of
17 (insert rate of percent) percent for economic development purposes?

18 YES NO

19

20 If a majority of the votes cast on the question by the qualified voters voting thereon are in favor
21 of the question, then the tax shall become effective on the first day of the second calendar quarter
22 following the calendar quarter in which the election was held. If a majority of the votes cast on
23 the question by the qualified voters voting thereon are opposed to the question, then the tax shall
24 not become effective unless and until the question is resubmitted under this section to the
25 qualified voters and such question is approved by a majority of the qualified voters voting on the
26 question, provided that no proposal shall be resubmitted to the voters sooner than twelve months
27 from the date of the submission of the last proposal.

28 4. All sales taxes collected by the director of revenue under this section on behalf of any
29 county or municipality, less one percent for cost of collection which shall be deposited in the
30 state's general revenue fund after payment of premiums for surety bonds as provided in section
31 32.087, shall be deposited in a special trust fund, which is hereby created, to be known as the
32 "Local Option Economic Development Sales Tax Trust Fund".

33 5. The moneys in the local option economic development sales tax trust fund shall not
34 be deemed to be state funds and shall not be commingled with any funds of the state. The
35 director of revenue shall keep accurate records of the amount of money in the trust fund and

36 which was collected in each city or county imposing a sales tax pursuant to this section, and the
37 records shall be open to the inspection of officers of the city or county and the public.

38 6. Not later than the tenth day of each month the director of revenue shall distribute all
39 moneys deposited in the trust fund during the preceding month to the city or county which levied
40 the tax. Such funds shall be deposited with the county treasurer of each such county or the
41 appropriate municipal officer in the case of a municipal tax, and all expenditures of funds arising
42 from the local economic development sales tax trust fund shall be in accordance with this
43 section.

44 7. The director of revenue may authorize the state treasurer to make refunds from the
45 amounts in the trust fund and credited to any city or county for erroneous payments and
46 overpayments made, and may redeem dishonored checks and drafts deposited to the credit of
47 such cities and counties.

48 8. If any county or municipality abolishes the tax, the city or county shall notify the
49 director of revenue of the action at least ninety days prior to the effective date of the repeal and
50 the director of revenue may order retention in the trust fund, for a period of one year, of two
51 percent of the amount collected after receipt of such notice to cover possible refunds or
52 overpayment of the tax and to redeem dishonored checks and drafts deposited to the credit of
53 such accounts. After one year has elapsed after the effective date of abolition of the tax in such
54 city or county, the director of revenue shall remit the balance in the account to the city or county
55 and close the account of that city or county. The director of revenue shall notify each city or
56 county of each instance of any amount refunded or any check redeemed from receipts due the
57 city or county.

58 9. Except as modified in this section, all provisions of sections 32.085 and 32.087 shall
59 apply to the tax imposed pursuant to this section.

60 10. (1) No revenue generated by the tax authorized in this section shall be used for any
61 retail development project, except for the redevelopment of downtown areas and historic
62 districts. Not more than twenty-five percent of the revenue generated shall be used annually for
63 administrative purposes, including staff and facility costs.

64 (2) At least twenty percent of the revenue generated by the tax authorized in this section
65 shall be used solely for projects directly related to long-term economic development preparation,
66 including, but not limited to, the following:

- 67 (a) Acquisition of land;
- 68 (b) Installation of infrastructure for industrial or business parks;
- 69 (c) Improvement of water and wastewater treatment capacity;
- 70 (d) Extension of streets;
- 71 (e) Public facilities directly related to economic development and job creation; and

72 (f) Providing matching dollars for state or federal grants relating to such long-term
73 projects.

74 (3) The remaining revenue generated by the tax authorized in this section may be used
75 for, but shall not be limited to, the following:

76 (a) Marketing;

77 (b) Providing grants and loans to companies for job training, equipment acquisition, site
78 development, and infrastructures;

79 (c) Training programs to prepare workers for advanced technologies and high skill jobs;

80 (d) Legal and accounting expenses directly associated with the economic development
81 planning and preparation process;

82 (e) Developing value-added and export opportunities for Missouri agricultural products.

83 11. All revenue generated by the tax shall be deposited in a special trust fund and shall
84 be used solely for the designated purposes. If the tax is repealed, all funds remaining in the
85 special trust fund shall continue to be used solely for the designated purposes. Any funds in the
86 special trust fund which are not needed for current expenditures may be invested by the
87 governing body in accordance with applicable laws relating to the investment of other city or
88 county funds.

89 12. (1) Any city or county imposing the tax authorized in this section shall establish an
90 economic development tax board. The volunteer board shall receive no compensation or
91 operating budget.

92 (2) The economic development tax board established by a city shall consist of **at least**
93 **five members, but may be increased to nine members. Either a five-member or nine-**
94 **member board shall be designated in the order or ordinance imposing the sales tax**
95 **authorized by this section, and are** to be appointed as follows:

96 (a) One [member] **or two members** shall be appointed by the school districts included
97 within any economic development plan or area funded by the sales tax authorized in this section.
98 Such member shall be appointed in any manner agreed upon by the affected districts;

99 (b) Three **or five** members shall be appointed by the chief elected officer of the city with
100 the consent of the majority of the governing body of the city;

101 (c) One [member] **or two members** shall be appointed by the governing body of the
102 county in which the city is located.

103 (3) The economic development tax board established by a county shall consist of seven
104 members, to be appointed as follows:

105 (a) One member shall be appointed by the school districts included within any economic
106 development plan or area funded by the sales tax authorized in this section. Such member shall
107 be appointed in any manner agreed upon by the affected districts;

108 (b) Four members shall be appointed by the governing body of the county; and
109 (c) Two members from the cities, towns, or villages within the county appointed in any
110 manner agreed upon by the chief elected officers of the cities or villages.

111

112 Of the members initially appointed, three shall be designated to serve for terms of two years, and
113 the remaining members shall be designated to serve for a term of four years from the date of such
114 initial appointments. **If there are nine members initially appointed, the sixth, seventh,**
115 **eighth, and ninth members shall be designated to serve for terms of two years.** Thereafter,
116 the members appointed shall serve for a term of four years, except that all vacancies shall be
117 filled for unexpired terms in the same manner as were the original appointments.

118 **(4) If an economic development tax board established by a city is already in**
119 **existence on August 28, 2011, any increase in the number of members of the board shall**
120 **be designated in an order or ordinance. The sixth, seventh, eighth, and ninth members**
121 **shall be appointed to a term with an expiration coinciding with the expiration of the terms**
122 **of the three board member positions that were originally appointed to terms of two years.**
123 **Thereafter, the additional members appointed shall serve for a term of four years, except**
124 **that all vacancies shall be filled for unexpired terms in the same manner as were the**
125 **additional appointments.**

126 13. The board, subject to approval of the governing body of the city or county, shall
127 consider economic development plans, economic development projects, or designations of an
128 economic development area, and shall hold public hearings and provide notice of any such
129 hearings. The board shall vote on all proposed economic development plans, economic
130 development projects, or designations of an economic development area, and amendments
131 thereto, within thirty days following completion of the hearing on any such plan, project, or
132 designation, and shall make recommendations to the governing body within ninety days of the
133 hearing concerning the adoption of or amendment to economic development plans, economic
134 development projects, or designations of an economic development area. The governing body
135 of the city or county shall have the final determination on use and expenditure of any funds
136 received from the tax imposed under this section.

137 14. The board may consider and recommend using funds received from the tax imposed
138 under this section for plans, projects or area designations outside the boundaries of the city or
139 county imposing the tax if, and only if:

140 (1) The city or county imposing the tax or the state receives significant economic benefit
141 from the plan, project or area designation; and

142 (2) The board establishes an agreement with the governing bodies of all cities and
143 counties in which the plan, project or area designation is located detailing the authority and
144 responsibilities of each governing body with regard to the plan, project or area designation.

145 15. Notwithstanding any other provision of law to the contrary, the economic
146 development sales tax imposed under this section when imposed within a special taxing district,
147 including but not limited to a tax increment financing district, neighborhood improvement
148 district, or community improvement district, shall be excluded from the calculation of revenues
149 available to such districts, and no revenues from any sales tax imposed under this section shall
150 be used for the purposes of any such district unless recommended by the economic development
151 tax board established under this section and approved by the governing body imposing the tax.

152 16. The board and the governing body of the city or county imposing the tax shall report
153 at least annually to the governing body of the city or county on the use of the funds provided
154 under this section and on the progress of any plan, project, or designation adopted under this
155 section and shall make such report available to the public.

156 17. Not later than the first day of March each year the board shall submit to the joint
157 committee on economic development a report, not exceeding one page in length, which must
158 include the following information for each project using the tax authorized under this section:

159 (1) A statement of its primary economic development goals;

160 (2) A statement of the total economic development sales tax revenues received during
161 the immediately preceding calendar year;

162 (3) A statement of total expenditures during the preceding calendar year in each of the
163 following categories:

164 (a) Infrastructure improvements;

165 (b) Land and or buildings;

166 (c) Machinery and equipment;

167 (d) Job training investments;

168 (e) Direct business incentives;

169 (f) Marketing;

170 (g) Administration and legal expenses; and

171 (h) Other expenditures.

172 18. The governing body of any city or county that has adopted the sales tax authorized
173 in this section may submit the question of repeal of the tax to the voters on any date available for
174 elections for the city or county. The ballot of submission shall be in substantially the following
175 form:

176 Shall (insert the name of the city or county) repeal the sales tax imposed at a rate
177 of (insert rate of percent) percent for economic development purposes?

178 YES NO

179

180 If a majority of the votes cast on the proposal are in favor of the repeal, that repeal shall become
181 effective on December thirty-first of the calendar year in which such repeal was approved. If a
182 majority of the votes cast on the question by the qualified voters voting thereon are opposed to
183 the repeal, then the sales tax authorized in this section shall remain effective until the question
184 is resubmitted under this section to the qualified voters of the city or county, and the repeal is
185 approved by a majority of the qualified voters voting on the question.

186 19. Whenever the governing body of any city or county that has adopted the sales tax
187 authorized in this section receives a petition, signed by ten percent of the registered voters of the
188 city or county voting in the last gubernatorial election, calling for an election to repeal the sales
189 tax imposed under this section, the governing body shall submit to the voters a proposal to repeal
190 the tax. If a majority of the votes cast on the question by the qualified voters voting thereon are
191 in favor of the repeal, that repeal shall become effective on December thirty-first of the calendar
192 year in which such repeal was approved. If a majority of the votes cast on the question by the
193 qualified voters voting thereon are opposed to the repeal, then the tax shall remain effective until
194 the question is resubmitted under this section to the qualified voters and the repeal is approved
195 by a majority of the qualified voters voting on the question.

196 20. If any provision of this section or section 67.1303 or the application thereof to any
197 person or circumstance is held invalid, the invalidity shall not affect other provisions or
198 application of this section or section 67.1303 which can be given effect without the invalid
199 provision or application, and to this end the provisions of this section and section 67.1303 are
200 declared severable.

**620.007. The department of economic development shall require start-up
2 companies that apply for economic development incentives, where the incentive is provided
3 up-front, to provide verification of financial information when an application for such
4 incentives is submitted to the department. In complying with this section, the department
5 shall define "start-up company".**

**620.009. 1. The department of economic development shall share either by
2 electronic copy of the original source or as close as a reproduction as possible all adverse
3 information it has about a company seeking state and local economic development
4 incentives with all local governments, local not-for-profit economic development
5 organizations, and economic development officials competing for the company's business.**

6 **2. Local governments, local not-for-profit economic development organizations, and**
7 **economic development officials working with a company seeking state or local economic**
8 **development incentives shall also share with the department of economic development all**
9 **adverse information received about a company.**

10 **3. In complying with the provisions of this section, all adverse information received**
11 **about a company seeking state or local economic development incentives shall be subject**
12 **to the provisions of section 620.014.**

13 **4. In working with local governments, local not-for-profit economic development**
14 **organizations, and economic development officials on projects, the department of economic**
15 **development shall designate one or more persons as the local contact for each project. The**
16 **designated contacts shall be the persons through whom all information required in this**
17 **section shall be provided. Such persons shall be required to sign a non-disclosure**
18 **agreement agreeing not to divulge information, including company name, acquired about**
19 **an applicant for economic development incentives to the general public.**

20 **5. In complying with the provisions of this section, no person or entity shall be**
21 **required to violate terms of another nondisclosure agreement related to the project, except**
22 **that the department of economic development shall not enter into a nondisclosure**
23 **agreement that forbids sharing of adverse information under this section.**

620.019. The department of economic development shall develop a rating system
2 **to apprise local governments of the department's opinion on proposals for discretionary**
3 **economic development incentives that combine local and state resources.**

Section 1. The department of economic development shall include a conflict of
2 **interest policy in all new consulting contracts for trade offices located in foreign countries.**

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