

# HOUSE BILL NO. 2016

## 101ST GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE BLACK (137).

4116H.02I

DANA RADEMAN MILLER, Chief Clerk

### AN ACT

To repeal section 71.1000, RSMo, and to enact in lieu thereof one new section relating to broadband infrastructure improvement districts.

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

Section A. Section 71.1000, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 71.1000, to read as follows:

71.1000. 1. Two or more ~~[municipalities]~~ **political subdivisions** may elect to form a broadband infrastructure improvement district for the delivery of broadband internet service to the residents of such ~~[municipality]~~ **political subdivision**, which district shall be a body politic and corporate.

2. A ~~[municipality]~~ **political subdivision** electing to form **or join** a **broadband infrastructure improvement** district under this section shall submit to the eligible voters of each such ~~[municipality]~~ **political subdivision** a proposition at a general or special election of such ~~[municipality]~~ **political subdivision**, in substantially the following form:

<p>"Shall <del>[the municipality of]</del> _____ <b>(insert name of political subdivision)</b> enter into a broadband infrastructure improvement district to be known as _____?"</p> <p><input type="checkbox"/> YES <span style="margin-left: 200px;"><input type="checkbox"/> NO</span></p>
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3. Additional ~~[municipalities]~~ **political subdivisions and private partnering entities** may be admitted to the district in the manner provided in ~~[subsection 8]~~ **subsections 8 and 9** of this section.

4. A district created under this section shall have the power to partner with a telecommunications company or broadband service provider in order to construct or improve

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.

18 telecommunications facilities which ~~shall~~ **may** be wholly **or partially** owned and operated  
 19 by the telecommunications company or broadband service provider, as the terms  
 20 "telecommunications company" and "telecommunications facilities" are defined in section  
 21 386.020 and subject to the provisions of section 392.410, that are in an unserved or  
 22 underserved area, as defined in section 620.2450, to the residents of the district. Before any  
 23 facilities are improved or constructed as a result of this section, the area shall be certified as  
 24 unserved or underserved by the director of broadband development within the department of  
 25 economic development.

26 5. A district may finance the provision or expansion of broadband internet service  
 27 through grants, loans, bonds, user fees, or a tax as set forth in subsection 6 of this section.

28 6. (1) Any district may impose by resolution a sales tax on all retail sales made in  
 29 such district which are subject to taxation pursuant to sections 144.010 to 144.525. The sales  
 30 tax imposed pursuant to this subsection shall not exceed one percent, except that such tax  
 31 shall not become effective unless the governing body of each ~~[municipality]~~ **political**  
 32 **subdivision** member of the district submits to the voters of such ~~[municipality]~~ **political**  
 33 **subdivision** at an election held on the first Tuesday after the first Monday in November of  
 34 even-numbered years, a proposal to authorize the district to impose a tax under the provisions  
 35 of this subsection. The tax authorized by this subsection shall be in addition to any and all  
 36 taxes imposed by law, and the proceeds of such tax shall be used solely to provide broadband  
 37 service to residents of the district. Such tax shall be stated separately from all other charges  
 38 and taxes.

39 (2) The ballot shall be substantially in the following form:

<p>40 "Shall the _____ (insert name of district) impose a districtwide          41 sales tax at the rate of _____ (insert amount) for the purpose of          42 providing broadband services to residents of the district?"</p> <p>43 <input type="checkbox"/> YES <span style="margin-left: 200px;"><input type="checkbox"/> NO</span></p> <p>44 If you are in favor of the question, place an "X" in the box opposite          45 "YES". If you are opposed to the question, place an "X" in the box          46 opposite "NO".</p>
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47  
 48 If a majority of the votes cast on the question by the qualified voters voting thereon in each  
 49 ~~[municipality]~~ **political subdivision** are in favor of the question, then the tax shall become  
 50 effective on the first day of the calendar quarter following the calendar quarter in which the  
 51 election was held. If a majority of the votes cast on the question by the qualified voters voting  
 52 thereon in any one ~~[municipality]~~ **political subdivision** are opposed to the question, then the  
 53 governing body for the district shall have no power to impose the tax authorized by this  
 54 subsection.

55 (3) The director of the department of revenue shall collect any tax adopted pursuant to  
56 this section pursuant to section 32.087.

57 7. (1) The district governing board shall be composed of at least one representative  
58 from each member, but in no case shall there be less than four representatives.

59 (2) Annually, on or before the last Monday in April commencing in the year  
60 following the effective date of the district's creation, the local governing body of each  
61 member shall appoint a representative to the district governing board for three-year terms.  
62 The local governing body of a member, by majority vote, may replace its appointed  
63 representative at any time.

64 (3) For the purpose of transacting business, the presence of representatives  
65 representing more than fifty percent of district members shall constitute a quorum. Any  
66 action adopted by a majority of the votes cast at a meeting of the governing board at which a  
67 quorum is present shall be the action of the board.

68 (4) Each district member's representative shall be entitled to cast one vote.

69 (5) Unless replaced as provided in subdivision (2) of this subsection, a representative  
70 on the governing board shall hold office until his or her successor is duly appointed. Any  
71 representative may be reappointed to successive terms without limit.

72 (6) Any vacancy on the board shall be filled within thirty days after such vacancy  
73 occurs by appointment of the local governing body which appointed the representative whose  
74 position has become vacant. An appointee to a vacancy shall serve until the expiration of the  
75 term of the representative whose position to the appointment was made and may thereafter be  
76 reappointed.

77 (7) Each district member may reimburse its representative to the governing board for  
78 expenses as it determines reasonable.

79 (8) (a) The officers of the district shall be the chair and the vice chair of the board,  
80 the clerk of the district, and the treasurer of the district.

81 (b) The chair shall preside at all meetings of the board and shall make and sign all  
82 contracts on behalf of the district upon approval by the board. The chair shall perform all  
83 duties incident to the position and office.

84 (c) During the absence of or inability of the chair to render or perform his or her  
85 duties or exercise his or her powers, the same shall be performed and exercised by the vice  
86 chair and when so acting, the vice chair shall have all the powers and be subject to all the  
87 responsibilities hereby given to or imposed upon the chair.

88 (d) During the absence or inability of the vice chair to render or perform his or her  
89 duties or exercise his or her powers, the board shall elect from among its membership an  
90 acting vice chair who shall have the powers and be subject to all the responsibilities hereby  
91 given or imposed upon the vice chair.

92 (e) Upon the death, disability, resignation, or removal of the chair or vice chair, the  
93 board shall elect a successor to such vacant office until the next annual meeting.

94 (9) The board shall adopt bylaws for the regulation of its affairs and the conduct of its  
95 business.

96 8. (1) The board may authorize the inclusion of additional [~~district members~~]  
97 **political subdivisions** in the broadband infrastructure improvement district upon such terms  
98 and conditions as in the board's sole discretion shall be deemed to be fair, reasonable, and in  
99 the best interests of the district.

100 (2) Prior to applying for admission to a broadband infrastructure improvement  
101 district, a [~~municipality~~] **political subdivision** electing to join a district shall submit to the  
102 eligible voters of the [~~municipality~~] **political subdivision** a proposition at a general or special  
103 election of such [~~municipality~~] **political subdivision**, in substantially the following form:

<p>104 "Shall [<del>the municipality of</del>] _____ <b>(insert name of the</b></p> <p>105 <b>political subdivision)</b> join the broadband infrastructure improvement</p> <p>106 district known as _____?"</p> <p>107 <input type="checkbox"/> YES <span style="margin-left: 200px;"><input type="checkbox"/> NO</span></p>
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108  
109 The local governing body of any nonmember [~~municipality~~] **political subdivision** which  
110 desires to be admitted to the district shall make application for admission to the board after an  
111 affirmative result from such election.

112 (3) The board shall determine the financial, economic, governance, and operational  
113 effects that are likely to occur if such [~~municipality~~] **political subdivision** is admitted and  
114 thereafter either grant or deny authority for admission of the petitioning [~~municipality~~]  
115 **political subdivision**. If the board grants such authority, it shall also specify any terms and  
116 conditions, including financial obligations, upon which such admission is predicated. Upon  
117 resolution of the board, such applicant [~~municipality~~] **political subdivision** shall become a  
118 district member.

119 9. (1) **The board may authorize the inclusion of a private partnering entity or**  
120 **entities in the broadband improvement district upon such terms and conditions as in the**  
121 **board's sole discretion shall be deemed to be fair, reasonable, and in the best interests of**  
122 **the district. The private partnering entity which desires to be admitted to the district**  
123 **shall make application for admission to the board. For purposes of this subsection,**  
124 **"private partnering entity" includes, but is not limited to, an electric cooperative or**  
125 **public utility providing services within the state.**

126 (2) **The board shall determine the financial, economic, governance, and**  
127 **operational effects that are likely to occur if such private partnering entity is admitted**  
128 **and thereafter either grant or deny authority for admission of the petitioning private**

129 **partnering entity. If the board grants such authority, it shall also specify any terms and**  
130 **conditions, including financial obligations, upon which such admission is predicated.**  
131 **Upon resolution of the board, such applicant private partnering entity shall become a**  
132 **district member.**

133 **(3) The board and the private partnering entity shall by agreement specify the**  
134 **ownership and other financial determinants of the private partnering entity's**  
135 **participation in the district. Any such determinations shall be considered to be**  
136 **within the public purposes of the district, absent a judicial determination that such**  
137 **public purposes do not exist.**

138 **(4) A private partnering entity admitted to a district under this subsection may**  
139 **finance the provision or expansion of broadband internet service through grants, loans,**  
140 **bonds, user fees, or any other financing methods that do not negatively impact the cost**  
141 **of service provided to the district's residents, customers, or rate-payers.**

142 **10.** A district member may withdraw from the district in the same manner as the vote  
143 for admission to the district set forth in ~~[subsection 8]~~ **subsections 8 and 9** of this section.

144 ~~[10.]~~ **11.** Dissolution of a broadband infrastructure improvement district created  
145 pursuant to this section shall follow the procedures established in sections 67.950 and 67.955.

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