

FIRST REGULAR SESSION

HOUSE BILL NO. 472

92ND GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE JOHNSON (47).

Read 1st time February 13, 2003, and copies ordered printed.

STEPHEN S. DAVIS, Chief Clerk

0541L.011

AN ACT

To repeal sections 67.1451, 67.1461, and 349.045, RSMo, and to enact in lieu thereof three new sections relating to boards of directors in community improvement districts.

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

Section A. Sections 67.1451, 67.1461, and 349.045, RSMo, are repealed and three new sections enacted in lieu thereof, to be known as sections 67.1451, 67.1461, and 349.045, to read as follows:

67.1451. 1. If a district is a political subdivision, the election and qualifications of members to the district's board of directors shall be in accordance with this section. If a district is a not-for-profit corporation, the election and qualification of members to its board of directors shall be in accordance with chapter 355, RSMo.

2. The district shall be governed by a board consisting of at least five but not more than thirty directors. Each director shall, during his or her entire term, be:

(1) At least eighteen years of age; and

(2) Be either:

(a) An owner, as defined in section 67.1401, of real property or of a business operating within the district; or

(b) A registered voter residing within the district; and

(3) Any other qualifications set forth in the petition establishing the district.

3. If the district is a political subdivision, the board shall be elected or appointed, as provided in the petition.

4. If the board is to be elected, the procedure for election shall be as follows:

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

16 (1) The municipal clerk shall specify a date on which the election shall occur which date
17 shall be a Tuesday and shall not be earlier than the tenth Tuesday, and shall not be later than the
18 fifteenth Tuesday, after the effective date of the ordinance adopted to establish the district;

19 (2) The election shall be conducted in the same manner as provided for in section
20 67.1551, provided that the published notice of the election shall contain the information required
21 by section 67.1551 for published notices, except that it shall state that the purpose of the election
22 is for the election of directors, in lieu of the information related to taxes;

23 (3) Candidates shall pay the sum of five dollars as a filing fee and shall file not later than
24 the second Tuesday after the effective date of the ordinance establishing the district with the
25 municipal clerk a statement under oath that he or she possesses all of the qualifications set out
26 in this section for a director. Thereafter, such candidate shall have his or her name placed on the
27 ballot as a candidate for director;

28 (4) The director or directors to be elected shall be elected at large. The person receiving
29 the most votes shall be elected to the position having the longest term; the person receiving the
30 second highest votes shall be elected to the position having the next longest term and so forth.
31 **For any district formed prior to the effective date of this section**, of the initial directors,
32 one-half shall serve for a two-year term, one-half shall serve for a four-year term and if an odd
33 number of directors are elected, the director receiving the least number of votes shall serve for
34 a two-year term, until such director's successor is elected. **For any district formed on or after**
35 **the effective date of this section, for the initial directors, one-half shall serve for a two-year**
36 **term, and one-half shall serve for the term specified by the district pursuant to subdivision**
37 **(5) of this subsection, and if an odd number of directors are elected, the director receiving**
38 **the least number of votes shall serve for a two-year term, until such director's successor is**
39 **elected;**

40 (5) Successor directors shall be elected in the same manner as the initial directors. The
41 date of the election of successor directors shall be specified by the municipal clerk which date
42 shall be a Tuesday and shall not be later than the date of the expiration of the stated term of the
43 expiring director. Each successor director shall serve a [four-year] term **for the length specified**
44 **prior to the election by the district, which term shall be at least three years and not more**
45 **than four years, and shall continue** until such director's successor is elected. In the event of
46 a vacancy on the board of directors, the remaining directors shall elect an interim director to fill
47 the vacancy for the unexpired term.

48 5. If the petition provides that the board is to be appointed by the municipality, such
49 appointments shall be made by the chief elected officer of the municipality with the consent of
50 the governing body of the municipality. **For any district formed prior to the effective date**
51 **of this section**, of the initial appointed directors, one-half of the directors shall be appointed to

52 serve for a two-year term and the remaining one-half shall be appointed to serve for a four-year
53 term until such director's successor is appointed; provided that, if there is an odd number of
54 directors, the last person appointed shall serve a two-year term. **For any district formed on or**
55 **after the effective date of this section, of the initial appointed directors, one-half shall be**
56 **appointed to serve for a two-year term, and one-half shall be appointed to serve for the**
57 **term specified by the district for successor directors pursuant to this subsection, and if an**
58 **odd number of directors are appointed, the last person appointed shall serve for a two-year**
59 **term; provided that each director shall serve until such director's successor is appointed.**
60 Successor directors shall be appointed in the same manner as the initial directors and shall serve
61 for a term of [four] years **specified by the district prior to the appointment, which term shall**
62 **be at least three years and not more than four years.**

63 6. If the petition states the names of the initial directors, those directors shall serve for
64 the terms specified in the petition and successor directors shall be determined either by the
65 above-listed election process or appointment process as provided in the petition.

66 7. Any director may be removed for cause by a two-thirds affirmative vote of the
67 directors of the board. Written notice of the proposed removal shall be given to all directors
68 prior to action thereon.

69 8. The board is authorized to act on behalf of the district, subject to approval of qualified
70 voters as required in this section; except that, all official acts of the board shall be by written
71 resolution approved by the board.

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

5 (1) To adopt, amend, and repeal bylaws, not inconsistent with sections 67.1401 to
6 67.1571, necessary or convenient to carry out the provisions of sections 67.1401 to 67.1571;

7 (2) To sue and be sued;

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

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

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

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

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

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

24 (9) If the district is a political subdivision, to levy real property taxes and business
25 license taxes in the county seat of a county of the first classification [without a charter form of
26 government] containing a population of at least two hundred thousand, as provided in sections
27 67.1401 to 67.1571. However, no such assessments or taxes shall be levied on any property
28 exempt from taxation pursuant to subdivisions (2) and (5) of section 137.100, RSMo. Those
29 exempt pursuant to subdivisions (2) and (5) of section 137.100, RSMo, may voluntarily
30 participate in the provisions of sections 67.1401 to 67.1571;

31 (10) If the district is a political subdivision in a city with a population of at least four
32 hundred thousand located in more than one county, to levy sales taxes pursuant to sections
33 67.1401 to 67.1571;

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

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

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

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

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

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

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

45 (15) To enter into one or more agreements with the municipality for the purpose of
46 abating any public nuisance within the boundaries of the district including, but not limited to,
47 the stabilization, repair or maintenance or demolition and removal of buildings or structures,
48 provided that the municipality has declared the existence of a public nuisance;

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

51 (a) Pedestrian or shopping malls and plazas;

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

- 53 (c) Convention centers, arenas, aquariums, aviaries, and meeting facilities;
- 54 (d) Sidewalks, streets, alleys, bridges, ramps, tunnels, overpasses and underpasses, traffic
55 signs and signals, utilities, drainage, water, storm and sewer systems, and other site
56 improvements;
- 57 (e) Parking lots, garages, or other facilities;
- 58 (f) Lakes, dams, and waterways;
- 59 (g) Streetscape, lighting, benches or other seating furniture, trash receptacles, marquees,
60 awnings, canopies, walls, and barriers;
- 61 (h) Telephone and information booths, bus stop and other shelters, rest rooms, and
62 kiosks;
- 63 (i) Paintings, murals, display cases, sculptures, and fountains;
- 64 (j) Music, news, and child-care facilities; and
- 65 (k) Any other useful, necessary, or desired improvement;
- 66 (17) To dedicate to the municipality, with the municipality's consent, streets, sidewalks,
67 parks, and other real property and improvements located within its boundaries for public use;
- 68 (18) Within its boundaries and with the municipality's consent, to prohibit or restrict
69 vehicular and pedestrian traffic and vendors on streets, alleys, malls, bridges, ramps, sidewalks,
70 and tunnels and to provide the means for access by emergency vehicles to or in such areas;
- 71 (19) Within its boundaries, to operate or to contract for the provision of music, news,
72 child-care, or parking facilities, and buses, minibuses, or other modes of transportation;
- 73 (20) Within its boundaries, to lease space for sidewalk café tables and chairs;
- 74 (21) Within its boundaries, to provide or contract for the provision of security personnel,
75 equipment, or facilities for the protection of property and persons;
- 76 (22) Within its boundaries, to provide or contract for cleaning, maintenance, and other
77 services to public and private property;
- 78 (23) To produce and promote any tourism, recreational or cultural activity or special
79 event in the district by, but not limited to, advertising, decoration of any public place in the
80 district, promotion of such activity and special events, and furnishing music in any public place;
- 81 (24) To support business activity and economic development in the district including,
82 but not limited to, the promotion of business activity, development and retention, and the
83 recruitment of developers and businesses;
- 84 (25) To provide or support training programs for employees of businesses within the
85 district;
- 86 (26) To provide refuse collection and disposal services within the district;
- 87 (27) To contract for or conduct economic, planning, marketing or other studies; [and]
- 88 (28) **To repair, restore, or maintain any abandoned cemetery on public or private**

89 **land within the district; and**

90 (29) To carry out any other powers set forth in sections 67.1401 to 67.1571.

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

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

96 (2) To expend its revenues or loan its revenues pursuant to a contract entered into
97 pursuant to this subsection, provided that the governing body of the municipality has determined
98 that the action to be taken pursuant to such contract is reasonably anticipated to remediate the
99 blighting conditions and will serve a public purpose.

100 3. Each district shall annually reimburse the municipality for the reasonable and actual
101 expenses incurred by the municipality to establish such district and review annual budgets and
102 reports of such district required to be submitted to the municipality; provided that, such annual
103 reimbursement shall not exceed one and one-half percent of the revenues collected by the district
104 in such year.

105 4. Nothing in sections 67.1401 to 67.1571 shall be construed to delegate to any district
106 any sovereign right of municipalities to promote order, safety, health, morals, and general
107 welfare of the public, except those such police powers, if any, expressly delegated pursuant to
108 sections 67.1401 to 67.1571.

109 5. The governing body of the municipality establishing the district shall not decrease the
110 level of publicly funded services in the district existing prior to the creation of the district or
111 transfer the financial burden of providing the services to the district unless the services at the
112 same time are decreased throughout the municipality, nor shall the governing body discriminate
113 in the provision of the publicly funded services between areas included in such district and areas
114 not so included.

349.045. The corporation shall have a board of directors in which all the powers of the
2 corporation shall be vested and which shall consist of any number of directors, not less than five,
3 all of whom shall be duly qualified electors of and taxpayers in the county or municipality;
4 **except that, for any industrial development corporation formed by any municipality**
5 **located wholly within any county of the third or fourth classification, directors may be**
6 **qualified taxpayers in and registered voters of such county.** The directors shall serve as such
7 without compensation except that they shall be reimbursed for their actual expenses incurred in
8 and about the performance of their duties hereunder. The directors shall be resident taxpayers
9 for [five years] **at least one year** immediately prior to their appointment. No director shall be
10 an officer or employee of the county or municipality. All directors shall be appointed by the

11 chief executive officer of the county or municipality with the advice and consent of a majority
12 of the governing body of the county or municipality, and in all counties, other than a city not
13 within a county and first class counties under a charter form of government, the appointments
14 shall be made by the county commission and they shall be so appointed that they shall hold office
15 for staggered terms. At the time of the appointment of the first board of directors the governing
16 body of the municipality or county shall divide the directors into three groups containing as
17 nearly equal whole numbers as may be possible. The first term of the directors included in the
18 first group shall be two years, the first term of the directors included in the second group shall
19 be four years, the first term of the directors in the third group shall be six years; provided, that
20 if at the expiration of any term of office of any director a successor thereto shall not have been
21 appointed, then the director whose term of office shall have expired shall continue to hold office
22 until [his] a successor shall be appointed by the chief executive officer of the county or
23 municipality with the advice and consent of a majority of the governing body of the county or
24 municipality. The successors shall be resident taxpayers for [five years] **at least one year**
25 immediately prior to their appointment.

Section B. Because immediate action is necessary to ensure adequate and responsive
2 representation to citizens residing in community improvement districts, section A of this act is
3 deemed necessary for the immediate preservation of the public health, welfare, peace, and safety,
4 and is hereby declared to be an emergency act within the meaning of the constitution, and section
5 A of this act shall be in full force and effect upon its passage and approval.