

SECOND REGULAR SESSION

# HOUSE BILL NO. 1659

## 92ND GENERAL ASSEMBLY

---

INTRODUCED BY REPRESENTATIVE JONES.

Read 1<sup>st</sup> time March 10, 2004, and copies ordered printed.

STEPHEN S. DAVIS, Chief Clerk

3600L.011

---

### AN ACT

To repeal sections 67.1501, 71.792, 71.794, 71.798, 71.799, 71.800, 71.801, 71.802, and 71.808, RSMo, and to enact in lieu thereof seven new sections relating to special business districts.

---

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

Section A. Sections 67.1501, 71.792, 71.794, 71.798, 71.799, 71.800, 71.801, 71.802, and 71.808, RSMo, are repealed and seven new sections enacted in lieu thereof, to be known as sections 67.1501, 71.792, 71.794, 71.798, 71.799, 71.800, and 71.802, RSMo, to read as follows:

67.1501. 1. A district may use any one or more of the assessments, taxes, or other funding methods specifically authorized pursuant to sections 67.1401 to 67.1571 to provide funds to accomplish any power, duty or purpose of the district; provided, however, no district which is located in any city not within a county and which includes any real property that is also included in a special business district established pursuant to sections 71.790 to [71.808] **71.806**, RSMo, prior to the establishment of the district pursuant to sections 67.1401 to 67.1571 shall have the authority to impose any such tax or assessment pursuant to sections 67.1401 to 67.1571 until such time as all taxes or special assessments imposed pursuant to sections 71.790 to [71.808] **71.806**, RSMo, on any real property or on any business located in such special business district or on any business or individual doing business in such special business district have been repealed in accordance with this subsection. The governing body of a special business district which includes real property located in a district established pursuant to sections 67.1401 to 67.1571 shall have the power to repeal all taxes and assessments imposed pursuant to sections 71.790 to [71.808] **71.806**, RSMo, and such power may be exercised by the adoption of a

**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 proposed language.**

15 resolution by the governing body of such special business district. Upon the adoption of such  
16 resolution such special business district shall no longer have the power to impose any tax or  
17 special assessment pursuant to sections 71.790 to [71.808] **71.806**, RSMo, until such time as the  
18 district or districts established pursuant to sections 67.1401 to 67.1571 which include any real  
19 property that is also included in such special business district have been terminated or have  
20 expired pursuant to sections 67.1401 to 67.1571.

21         2. A district may establish different classes of real property within the district for  
22 purposes of special assessments. The levy rate for special assessments may vary for each class  
23 or subclass based on the level of benefit derived from services or improvements funded, provided  
24 or caused to be provided by the district.

25         3. Notwithstanding anything in sections 67.1401 to 67.1571 to the contrary, any district  
26 which is not a political subdivision shall have no power to levy any tax but shall have the power  
27 to levy special assessments in accordance with section 67.1521.

       71.792. A business district shall be formed by ordinance of the governing body of the  
2 city which shall establish the business district and define its limits. Prior to the establishment  
3 of a business district the [governing body of the city] **petitioners** shall [conduct] **submit to the**  
4 **governing body of the city** a survey and investigation for the purposes of determining the nature  
5 of and suitable location for business district improvements, the approximate cost of acquiring  
6 and improving the land therefor, the area to be included in the business district or districts, the  
7 need for and cost of special services, and cooperative promotion activities, and the percentage  
8 of the cost of acquisition, special services, and improvements in the business district which are  
9 to be assessed against the property within the business district and that part of the cost, if any,  
10 to be paid by public funds. The cost of the survey and investigation shall be included as a part  
11 of the cost of establishing the business district. A written report of this survey and investigation  
12 shall be filed in the office of the city clerk in the city and shall be available for public inspection.

       71.794. A special business district may be established, enlarged or decreased in area as  
2 provided herein in the following manner:

3         (1) Upon petition by one or more owners of real property on which is paid the ad  
4 valorem real property taxes within the proposed district, the governing body of the city may  
5 adopt a resolution of intention to establish, enlarge or decrease in area a special business district  
6 **or modify the tax rate ceiling**. The resolution shall contain the following information:

7             (a) Description of the boundaries of the proposed area;

8             (b) The time and place of a hearing to be held by the governing body considering  
9 establishment of the district;

10            (c) The proposed uses to which the additional revenue shall be put and the initial tax rate  
11 to be levied.

12 (2) Whenever a hearing is held as provided hereunder, the governing body of the city  
13 shall publish notice of the hearing on two separate occasions in at least one newspaper of general  
14 circulation not more than fifteen days nor less than ten days before the hearing; and shall mail  
15 a notice by [registered or certified] **first class** United States mail [with a return receipt attached]  
16 of the hearing to all owners of record of real property and licensed businesses located in the  
17 proposed district; and shall hear all protests and receive evidence for or against the proposed  
18 action; rule upon all protests which determination shall be final; and continue the hearing from  
19 time to time.

20 (3) If the governing body decides to change the boundaries of the proposed area, the  
21 hearing shall be continued to a time at least fifteen days after the decision. Notice shall be given  
22 in at least one newspaper of general circulation at least ten days prior to the time of said hearing  
23 showing the boundary amendments.

24 (4) If the governing body following the hearing decides to establish the proposed district,  
25 it shall adopt an ordinance to that effect. The ordinance shall contain the following:

26 (a) The number, date and time of the resolution of intention pursuant to which it was  
27 adopted;

28 (b) The time and place the hearing was held concerning the formation of the area;

29 (c) The description of the boundaries of the district;

30 (d) A statement that the property in the area established by the ordinance shall be subject  
31 to the provisions of additional tax as provided herein;

32 (e) The initial rate of levy to be imposed upon the property lying within the boundaries  
33 of the district;

34 (f) A statement that a special business district has been established;

35 (g) The uses to which the additional revenue shall be put;

36 (h) In any city with a population of less than three hundred fifty thousand, the creation  
37 of an advisory board or commission and enumeration of its duties and responsibilities;

38 (i) In any city with a population of three hundred fifty thousand or more, provisions for  
39 a board of commissioners to administer the special business district, which board shall consist  
40 of seven members who shall be appointed by the mayor with the advice and consent of the  
41 governing body of the city. Five members shall be owners of real property within the district or  
42 their representatives and two members shall be renters of real property within the district or their  
43 representatives. The terms of the members shall be structured so that not more than two  
44 members' terms shall expire in any one year. Subject to the foregoing, the governing body of the  
45 city shall provide in such ordinance for the method of appointment, the qualifications, and terms  
46 of the members.

71.798. The governing body of the city creating the district shall have sole discretion as

2 to how the revenue derived from any tax to be imposed herein shall be used within the scope of  
3 the above purposes, **unless such district is administered by an appointed board of**  
4 **commissioners as provided in paragraph (i) of subdivision (4) of section 71.794. For all**  
5 **districts administered by an appointed board of commissioners, such board shall have sole**  
6 **discretion as to how the revenue derived from any tax to be imposed herein shall be used**  
7 **within the scope of the above purposes.** The governing body of the city shall appoint an  
8 advisory board or commission to make recommendations as to its use. The governing body of  
9 the city creating the district shall not decrease the level of publicly funded services in the district  
10 existing prior to creation of the district or transfer the financial burden of providing the services  
11 to the district unless the services at the same time are decreased throughout the city, nor shall the  
12 governing body discriminate in the provision of the publicly funded services between areas  
13 included in such a district and areas not so included.

71.799. [1.] In any city with a population of three hundred fifty thousand or more, a  
2 district shall have all the powers necessary or convenient to carry out any and all improvements  
3 adopted in the ordinance establishing the district and, in addition, may exercise the following  
4 powers:

5 (1) Cooperate with other public agencies and with any industry or business located  
6 within the district in the implementation of any project within the district;

7 (2) Enter into any agreement with any other public agency, any person, firm, or  
8 corporation to effect any of the provisions contained in sections 71.790 to [71.808] **71.806**;

9 (3) Contract and be contracted with, and to sue and be sued;

10 (4) Accept gifts, grants, loans, or contributions from the city in which the district is  
11 located, the United States of America, the state of Missouri, political subdivisions, foundations,  
12 other public or private agencies, individuals, partnerships, or corporations;

13 (5) Employ such managerial, engineering, legal, technical, clerical, accounting, and other  
14 assistance as it may deem advisable. The district may also contract with independent contractors  
15 for any such assistance.

16 [2. In any city with a population of three hundred fifty thousand or more, the governing  
17 body of the city creating the district shall have final discretion as to how the revenue derived  
18 from any tax to be imposed under sections 71.790 to 71.808 shall be used within the scope of the  
19 above purposes, and the governing body of the city shall give its advice and consent to members  
20 of a board of commissioners appointed by the mayor of the city to administer the district. The  
21 governing body of the city creating the district shall not decrease the level of publicly funded  
22 services in the district existing prior to creation of the district or transfer the financial burden of  
23 providing the services to the district unless the services at the same time are decreased  
24 throughout the city, nor shall the governing body discriminate in the provision of the publicly

25 funded services between areas included in such a district and areas not so included.]

71.800. 1. For the purpose of paying for all costs and expenses incurred in the operation  
2 of the district, the provision of services or improvements authorized in section 71.796, and  
3 incidental to the leasing, construction, acquisition, and maintenance of any improvements  
4 provided for under sections 71.790 to [71.808] **71.806** or for paying principal and interest on  
5 notes or bonds authorized for the construction or acquisition of any said improvement, the  
6 district may impose a tax upon the owners of real property within the district which shall not  
7 exceed [eighty-five cents] **one dollar and fifty cents** on the one-hundred-dollar assessed  
8 valuation. In any city other than a city not within a county, real property subject to partial tax  
9 abatement under either the provisions of the urban redevelopment corporations law of Missouri  
10 or the provisions of sections 99.700 to 99.710, RSMo, shall for the purpose of assessment and  
11 collection of ad valorem real estate taxes levied under the provisions of this section be assessed  
12 and ad valorem real estate taxes shall be collected as if the real estate were not subject to the tax  
13 abatement. The collection of delinquent receipts of said tax shall be in the same manner and  
14 form as that provided by law for all ad valorem property taxes. Taxes levied and collected under  
15 sections 71.790 to [71.808] **71.806** shall be uniform upon the same class of subjects within the  
16 territorial limits of the authority levying the tax.

17 2. For the purpose of paying for all costs and expenses incurred in the operation of the  
18 district and the provision of services or improvements authorized in section 71.796, the district  
19 may impose additional tax on businesses and individuals doing business within the district. If  
20 the governing body imposes any business license taxes, such additional taxes shall not exceed  
21 fifty percent of the business license taxes. Whenever a hearing is held herein, the governing  
22 body shall hear all protests and receive evidence for or against the proposed action; rule upon all  
23 protests which determination shall be final; and may continue the hearing from time to time.  
24 Proceedings shall terminate if protest is made by businesses in the proposed area which pay a  
25 majority of the additional taxes within the area. For purposes of the additional tax to be imposed  
26 pursuant to this part, the governing body of the city may make a reasonable classification of  
27 businesses, giving consideration to various factors.

28 3. In addition to the taxes authorized by subsections 1 and 2 of this section, any district  
29 within a city which has a population of three hundred fifty thousand or more and is located  
30 within more than one county upon authorization of a majority of the voters voting thereon may  
31 impose one or more of the following special assessments on all real property located within the  
32 district:

33 (1) Not more than five cents per square foot on each square foot of land;

34 (2) Not more than one-half of a cent per square foot on each square foot of  
35 improvements on land; and

36 (3) Not more than twelve dollars per abutting foot of the lots, tracts and parcels of land  
37 within the district abutting on public streets, roads and highways.

38 4. For purposes of sections 10(c), 16, and 22 of article X of the Constitution of Missouri,  
39 and of section 137.073, RSMo, the following terms as applied to an election pursuant to this  
40 section mean:

41 (1) "Approval of the required majority" or "direct voter approval", a simple majority;

42 (2) "Qualified voters", persons or other entities who have filed an application pursuant  
43 to subsection 6 of this section.

44 5. [The governing body of any city in which there is a special business district may order  
45 an election on the approval of a new tax rate ceiling or assessment limit for any tax imposed  
46 pursuant to subsections 1 to 3 of this section. All costs of any such election shall be borne by  
47 the district out of its existing levy. The order shall set forth the new tax rate ceiling or assessment  
48 limit proposed. Any provision of law to the contrary notwithstanding, the tax rate ceiling may  
49 be increased or decreased, from any rate as revised under the provisions of section 137.073,  
50 RSMo, to any rate not in excess of eighty-five cents on the one-hundred-dollar assessed  
51 valuation. Such order shall specify a date on which ballots for the election shall be mailed. Such  
52 date shall be a Tuesday, and shall be not earlier than the eighth Tuesday from the issuance of the  
53 order, nor later than August fifteenth of the year the order is issued and shall not be on the same  
54 day as an election conducted under the provisions of chapter 115, RSMo.

55 6. Application for a ballot shall be conducted as provided in this subsection:

56 (1) Persons entitled to apply for a ballot in an election to approve a new tax rate ceiling  
57 for a tax imposed pursuant to subsection 1 or 3 of this section shall be:

58 (a) A resident individual of the district; or

59 (b) A person, including an individual, partnership, limited partnership, corporation,  
60 estate, or trust, which owns real property within the special business district;

61 (2) A person entitled to apply for a ballot in an election to approve a new tax rate ceiling  
62 for a tax imposed pursuant to subsection 2 of this section shall be a person, including an  
63 individual, partnership, limited partnership, corporation, estate, or trust, which possesses a  
64 license to do business in the district;

65 (3) Only persons entitled to apply for a ballot in elections pursuant to this section shall  
66 apply. Such persons shall apply with the clerk of the city in which the special business district  
67 is organized. Each person applying shall provide:

68 (a) Such person's name, address, mailing address, and phone number;

69 (b) An authorized signature; and

70 (c) Evidence that such person is entitled to vote. Such evidence shall be:

71 a. For resident individuals, proof of registration from the election authority;

72 b. For owners of real property, a tax receipt or deed or other document which evidences  
73 an equitable ownership, and identifies the real property by location;

74 c. For holders of business licenses, a copy of such business license;

75 (4) No person shall apply later than the fourth Tuesday before the date for mailing ballots  
76 specified in the governing body's order.

77 7. The clerk shall mail a ballot to each applicant of the district along with a return  
78 addressed envelope directed to the city clerk's office with a sworn affidavit on the reverse side  
79 of such envelope for the voter's signature. Such affidavit shall be in the following form:

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

84 .....

85 Authorized Signature

Subscribed and sworn to  
before me this .....  
day of ....., 20 .....

86

87 .....

88 Printed Name of Voter

89 .....

90 Address of Voter

.....  
Signature of notary or  
other officer authorized  
to administer oaths

91

92 .....

93 Mailing Address of Voter

94 (if different)

95 8.] The question shall be submitted in substantially the following forms:

96 (1) Shall the special business district of ..... be authorized to impose a tax on  
97 owners of real property in a sum not to exceed ..... cents on the one hundred dollar assessed  
98 valuation?

99  YES  NO

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

102 (2) Shall the special business district of ..... be authorized to impose its business  
103 license tax on businesses and individuals doing business within the special business district in  
104 an amount not to exceed ..... percent of the business license tax imposed by .....?

105  YES  NO

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

108 (3) Shall the special business district of ..... be authorized to impose a special  
109 assessment not to exceed ..... cents per square foot on each square foot of land within the  
110 district?

111  YES  NO

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

114 (4) Shall the special business district of ..... be authorized to impose a special  
115 assessment not to exceed ..... cents per square foot on each square foot of improvements on  
116 land within the district?

117  YES  NO

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

120 (5) Shall the special business district of ..... be authorized to impose a special  
121 assessment not to exceed ..... dollars per abutting foot of the lots, tracts and parcels of land  
122 within the district abutting on public streets, roads and highways?

123  YES  NO

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

126 (6) Shall the special business district of ..... change its tax on ..... to .....?

127  YES  NO

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

130 Each ballot shall be plain paper, through which printing or writing cannot be read.

131 [9. Each qualified voter shall have one vote. Each voter which is not an individual shall  
132 determine how to cast its vote as provided for in its articles of incorporation, articles of  
133 partnership, bylaws, or other document which sets forth an appropriate mechanism for the  
134 determination of the entity's vote. If a voter has no such mechanism, then its vote shall be cast  
135 as determined by a majority of the persons who run the day-to-day affairs of the voter. Each  
136 voted ballot shall be signed with the authorized signature.

137 10. Voted ballots shall be returned to the city clerk's office by mail or hand delivery no  
138 later than 5:00 p.m. on the sixth Tuesday after the date for mailing the ballots as set forth in the  
139 governing body's order. The city clerk shall transmit all voted ballots to a team of judges of not  
140 less than four, with an equal number from each of the two major political parties. The judges  
141 shall be selected by the city clerk from lists compiled by the election authority. Upon receipt of  
142 the voted ballots the judges shall verify the authenticity of the ballots, canvass the votes, and  
143 certify the results. Certification by the election judges shall be final and shall be immediately



144 transmitted to the governing body. Any voter who applied for such election may contest the  
145 result in the same manner as provided in chapter 115, RSMo.

146 11.] 6. If approved, the new tax rate ceiling or assessment limit shall be effective for the  
147 tax year in which the election is held, the provisions of section 67.110, RSMo, to the contrary  
148 notwithstanding.

71.802. 1. Any district established under the provisions of sections 71.790 to [71.808]  
2 **71.806** may, upon approval of the constitutionally required percentage of the voters of the district  
3 voting thereon, incur indebtedness and issue bonds or notes for the payment thereof. Notice of  
4 the election, the amount and the purpose of the loan shall be given.

5 2. The question shall be submitted in substantially the following form:

6 Shall the special business district incur indebtedness for the purpose of ..... in the  
7 amount of .... dollars, evidenced by the issuance of bonds or notes and levy a real estate tax to  
8 pay therefor?

9 3. If the constitutionally required percentage of the votes cast are for the indebtedness,  
10 the district shall, subject to the restrictions of section 71.796 and section 71.800, be vested with  
11 the power to incur indebtedness in the name of the district, to the amount and for the purposes  
12 specified on the ballot, and issue the bonds of the district for the payment thereof.

13 4. The indebtedness authorized by this section shall not be contracted for a period longer  
14 than twenty years, and the entire amount of the indebtedness shall at no time exceed, including  
15 the existing indebtedness of the district, in the aggregate ten percent of the value of taxable  
16 tangible property therein, as shown by the last completed assessment for state and county  
17 purposes.

18 5. It shall be the duty of the district to provide for the collection of an annual tax  
19 sufficient to pay the interest on the indebtedness as it falls due, and also to constitute a sinking  
20 fund for the payment of the principal thereof within the time the principal becomes due.

[71.801. In any city not within a county, real property subject  
2 to partial tax abatement under the provisions of chapter 353, RSMo,  
3 shall for the purpose of assessment and collection of ad valorem real  
4 estate taxes levied under the provisions of sections 71.790 to 71.808  
5 be assessed and ad valorem real estate taxes shall be collected as  
6 provided in the ordinance adopted by the governing body of the city  
7 approving the development plan of any such corporation and  
8 authorizing tax abatement.]

[71.808. The findings of the legislative body of the city of the  
2 benefits to be derived by said district as set out in the ordinance as  
3 required above shall be conclusive.]