

FIRST REGULAR SESSION

HOUSE BILL NO. 1221

94TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE CUNNINGHAM (86).

Read 1st time March 29, 2007 and copies ordered printed.

D. ADAM CRUMBLISS, Chief Clerk

2740L.011

AN ACT

To repeal sections 67.453, 67.456, 67.457, 67.458, 67.463, and 67.467, RSMo, and to enact in lieu thereof six new sections relating to neighborhood improvement districts.

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

Section A. Sections 67.453, 67.456, 67.457, 67.458, 67.463, and 67.467, RSMo, are
2 repealed and six new sections enacted in lieu thereof, to be known as sections 67.453, 67.456,
3 67.457, 67.458, 67.463, and 67.467, to read as follows:

67.453. Sections 67.453 to 67.475 are known and may be cited as the "Neighborhood
2 Improvement District Act", and the following words and terms, as used in sections 67.453 to
3 67.475 mean:

4 (1) "Acquire", the acquisition of property or interests in property by purchase, gift,
5 condemnation or other lawful means and may include the acquisition of existing property and
6 improvements already owned by the city or county;

7 (2) "Consultant", engineers, architects, planners, attorneys, financial advisors,
8 accountants, investment bankers and other persons deemed competent to advise and assist the
9 governing body of the city or county in planning and making improvements;

10 (3) "Cost", all costs incurred in connection with an improvement, including, but not
11 limited to, costs incurred for the preparation of preliminary reports, the preparation of plans and
12 specifications, the preparation and publication of notices of hearings, resolutions, ordinances and
13 other proceedings, fees and expenses of consultants, interest accrued on borrowed money during
14 the period of construction, underwriting costs and other costs incurred in connection with the

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.

15 issuance of bonds or notes, establishment of reasonably required reserve funds for bonds or
16 notes, the cost of land, materials, labor and other lawful expenses incurred in planning, acquiring
17 and doing any improvement, reasonable construction contingencies, and work done or services
18 performed by the city or county in the administration and supervision of the improvement;

19 (4) "Improve", to construct, reconstruct, maintain, restore, replace, renew, repair, install,
20 equip, extend, or to otherwise perform any work which will provide a new public facility or
21 enhance, extend or restore the value or utility of an existing public facility;

22 (5) "Improvement", any one or more public facilities or improvements which confer a
23 benefit on property within a definable area and may include or consist of a reimprovement of a
24 prior improvement. Improvements include, but are not limited to, the following activities:

25 (a) To acquire property or interests in property when necessary or desirable for any
26 purpose authorized by sections 67.453 to 67.475;

27 (b) To open, widen, extend and otherwise to improve streets, paving and other surfacing,
28 gutters, curbs, sidewalks, crosswalks, driveway entrances and structures, drainage works
29 incidental thereto, and service connections from sewer, water, gas and other utility mains,
30 conduits or pipes;

31 (c) To improve main and lateral storm water drains and sanitary sewer systems, and
32 appurtenances thereto;

33 (d) To improve street lights and street lighting systems;

34 (e) To improve waterworks systems;

35 (f) To improve parks, playgrounds and recreational facilities;

36 (g) To improve any street or other facility by landscaping, planting of trees, shrubs, and
37 other plants;

38 (h) To improve dikes, levees and other flood control works, gates, lift stations, bridges
39 and streets appurtenant thereto;

40 (i) To improve vehicle and pedestrian bridges, overpasses and tunnels;

41 (j) To improve retaining walls and area walls on public ways or land abutting thereon;

42 (k) To improve property for off-street parking facilities including construction and
43 equipment of buildings thereon;

44 (l) To acquire or improve any other public facilities or improvements deemed necessary
45 by the governing body of the city or county; and

46 (m) To improve public safety;

47 (6) "Neighborhood improvement district", an area of a city or county with defined limits
48 and boundaries which is created by vote [or by petition] under sections 67.453 to 67.475 and
49 which is benefited by an improvement and subject to special assessments against the real
50 property therein for the cost of the improvement.

67.456. 1. The average maturity of bonds or notes issued under the neighborhood improvement district act after August 28, 2004, shall not exceed one hundred twenty percent of the average economic life of the improvements for which the bonds or notes are issued.

2. Any improvement for which [a petition is filed or] an election is held under section 67.457 after August 28, 2004, including improvements to or located on property owned by a city or county, shall include provisions for maintenance of the project during the term of the bonds or notes.

3. In the event that, after August 28, 2004, any parcel of property within the neighborhood improvement district is divided into more than one parcel of property after the final costs of the improvement are assessed, all unpaid final costs of the improvement assessed to the original parcel that was divided shall be recalculated and reassessed proportionally to each of the parcels resulting from the division of the original parcel, based on the assessed valuation of each resulting parcel. No parcel of property which has had the assessment against it paid in full by the property owner shall be reassessed under this section. No parcel of property shall have the initial assessment against it changed, except for any changes for special, supplemental, or additional assessments authorized under the state neighborhood improvement district act.

67.457. 1. To establish a neighborhood improvement district, the governing body of any city or county shall comply with [either of] the procedures described in subsection 2 [or 3] of this section.

2. The governing body of any city or county proposing to create a neighborhood improvement district may by resolution submit the question of creating such district to all qualified voters residing within such district at a general or special election called for that purpose. Such resolution shall set forth the project name for the proposed improvement, the general nature of the proposed improvement, the estimated cost of such improvement, the boundaries of the proposed neighborhood improvement district to be assessed, and the proposed method or methods of assessment of real property within the district, including any provision for the annual assessment of maintenance costs of the improvement in each year during the term of the bonds issued for the original improvement and after such bonds are paid in full. The governing body of the city or county may create a neighborhood improvement district when the question of creating such district has been approved by [the vote of the percentage of electors within such district voting thereon that is equal to the percentage of voter approval required for the issuance of general obligation bonds of such city or county under article VI, section 26 of the constitution of this state] **two-thirds of the voters voting thereon**. The notice of election containing the question of creating a neighborhood improvement district shall contain the project name for the proposed improvement, the general nature of the proposed improvement, the estimated cost of such improvement, the boundaries of the proposed neighborhood improvement

21 district to be assessed, the proposed method or methods of assessment of real property within the
22 district, including any provision for the annual assessment of maintenance costs of the
23 improvement in each year after the bonds issued for the original improvement are paid in full,
24 and a statement that the final cost of such improvement assessed against real property within the
25 district and the amount of general obligation bonds issued therefor shall not exceed the estimated
26 cost of such improvement, as stated in such notice, by more than twenty-five percent, and that
27 the annual assessment for maintenance costs of the improvements shall not exceed the estimated
28 annual maintenance cost, as stated in such notice, by more than twenty-five percent. The ballot
29 upon which the question of creating a neighborhood improvement district is submitted to the
30 qualified voters residing within the proposed district shall contain a question in substantially the
31 following form:

32 Shall (name of city or county) be authorized to create a neighborhood
33 improvement district proposed for the (project name for the proposed improvement) and
34 incur indebtedness and issue general obligation bonds to pay for all or part of the cost of public
35 improvements within such district, the cost of all indebtedness so incurred to be assessed by the
36 governing body of the (city or county) on the real property benefited by such
37 improvements for a period of years, and, if included in the resolution, an assessment in each
38 year thereafter with the proceeds thereof used solely for maintenance of the improvement?

39 3. [As an alternative to the procedure described in subsection 2 of this section, the
40 governing body of a city or county may create a neighborhood improvement district when a
41 proper petition has been signed by the owners of record of at least two-thirds by area of all real
42 property located within such proposed district. The petition, in order to become effective, shall
43 be filed with the city clerk or county clerk. A proper petition for the creation of a neighborhood
44 improvement district shall set forth the project name for the proposed improvement, the general
45 nature of the proposed improvement, the estimated cost of such improvement, the boundaries
46 of the proposed neighborhood improvement district to be assessed, the proposed method or
47 methods of assessment of real property within the district, including any provision for the annual
48 assessment of maintenance costs of the improvement in each year during the term of the bonds
49 issued for the original improvement and after such bonds are paid in full, a notice that the names
50 of the signers may not be withdrawn later than seven days after the petition is filed with the city
51 clerk or county clerk, and a notice that the final cost of such improvement assessed against real
52 property within the district and the amount of general obligation bonds issued therefor shall not
53 exceed the estimated cost of such improvement, as stated in such petition, by more than
54 twenty-five percent, and that the annual assessment for maintenance costs of the improvements
55 shall not exceed the estimated annual maintenance cost, as stated in such petition, by more than
56 twenty-five percent.

57 4.] Upon receiving the requisite voter approval at an election [or upon the filing of a
58 proper petition with the city clerk or county clerk], the governing body may by resolution or
59 ordinance determine the advisability of the improvement and may order that the district be
60 established and that preliminary plans and specifications for the improvement be made. Such
61 resolution or ordinance shall state and make findings as to the project name for the proposed
62 improvement, the nature of the improvement, the estimated cost of such improvement, the
63 boundaries of the neighborhood improvement district to be assessed, the proposed method or
64 methods of assessment of real property within the district, including any provision for the annual
65 assessment of maintenance costs of the improvement in each year after the bonds issued for the
66 original improvement are paid in full, and shall also state that the final cost of such improvement
67 assessed against the real property within the neighborhood improvement district and the amount
68 of general obligation bonds issued therefor shall not, without a new election [or petition], exceed
69 the estimated cost of such improvement by more than twenty-five percent.

70 [5.] 4. The boundaries of the proposed district shall be described by metes and bounds,
71 streets or other sufficiently specific description. The area of the neighborhood improvement
72 district finally determined by the governing body of the city or county to be assessed may be less
73 than, but shall not exceed, the total area comprising such district.

74 [6.] 5. In any neighborhood improvement district organized prior to August 28, 1994,
75 an assessment may be levied and collected after the original period approved for assessment of
76 property within the district has expired, with the proceeds thereof used solely for maintenance
77 of the improvement, if the residents of the neighborhood improvement district [either] vote to
78 assess real property within the district for the maintenance costs in the manner prescribed in
79 subsection 2 of this section [or if the owners of two-thirds of the area of all real property located
80 within the district sign a petition for such purpose in the same manner as prescribed in subsection
81 3 of this section].

67.458. The governing bodies of two or more adjoining counties may, pursuant to
2 section 70.220, RSMo, contract to improve a road or street located within such adjoining
3 counties. In addition, the governing bodies of two or more adjoining counties may create a
4 neighborhood improvement district for the purpose of improving a road or street located within
5 such adjoining counties. Except as otherwise provided in this section, all provisions of sections
6 67.453 to 67.475 shall apply to such a district and all powers included within sections 67.453 to
7 67.475 shall be available to the governing bodies of the district; however, any decision required
8 of the governing bodies under sections 67.453 to 67.475 must be made in a unanimous manner
9 by all governing bodies of the counties in the district. In forming such a district, the governing
10 body of each county shall separately comply with the provisions of [either] subsection 2 [or 3]
11 of section 67.457, and all proposed portions of the district must be joined as part of the district

12 or the district shall not be formed. The separate fund or account required by section 67.473 shall
13 be a fund or account maintained in the county treasury of the county containing the largest
14 percentage of the assessed valuation of the district; however, the governing body of each county
15 within the district shall be required to approve expenditures from the fund in accordance with
16 section 67.473.

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 benefited by such improvement in such
10 equitable manner as the governing body shall determine, charging each parcel of property with
11 its proportionate share of the costs, and by resolution or ordinance, assess the final cost of the
12 improvement or the amount of general obligation bonds issued or to be issued therefor as special
13 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 RSMo. Interest on the assessment between the effective date of the ordinance or resolution
34 assessing the assessment and the date the first installment is payable shall be added to the first
35 installment. The interest for one year on all unpaid installments shall be added to each
36 subsequent installment until paid. In the case of a special assessment by a city, all of the
37 installments, together with the interest accrued or to accrue thereon, may be certified by the city
38 clerk to the county clerk in one instrument at the same time. Such certification shall be good for
39 all of the installments, and the 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.

67.467. 1. To correct omissions, errors or mistakes in the original assessment which
2 relate to the total cost of an improvement, the governing body of the city or county may, without
3 a notice or hearing, make supplemental or additional assessments on property within a
4 neighborhood improvement district, except that such supplemental or additional assessments
5 shall not, without a new election [or new petition] as provided in section 67.457, exceed
6 twenty-five percent of the estimated cost of the improvement determined pursuant to section
7 67.457.

8 2. When an assessment is, for any reason whatever, set aside by a court of competent
9 jurisdiction as to any property, or in the event the governing body finds that the assessment or
10 any part thereof is excessive or determines on advice of counsel in writing that it is or may be
11 invalid for any reason, the governing body may, upon notice and hearing as provided for the
12 original assessment, make a reassessment or a new assessment as to such property.

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