

CONFERENCE COMMITTEE SUBSTITUTE

FOR

SENATE SUBSTITUTE

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FOR

HOUSE BILL NO. 1768

AN ACT

To repeal sections 67.453, 67.1461, 67.1846, 67.5122, 392.020, 620.2451, 620.2456, and 620.2459, RSMo, and to enact in lieu thereof eight new sections relating to communications services.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF MISSOURI, AS FOLLOWS:

Section A. Sections 67.453, 67.1461, 67.1846, 67.5122, 392.020, 620.2451, 620.2456, and 620.2459, RSMo, are repealed and eight new sections enacted in lieu thereof, to be known as sections 67.453, 67.1461, 67.1846, 67.5122, 392.020, 620.2451, 620.2456, and 620.2459, to read as follows:

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

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

(2) "Consultant", engineers, architects, planners,

1 attorneys, financial advisors, accountants, investment bankers  
2 and other persons deemed competent to advise and assist the  
3 governing body of the city or county in planning and making  
4 improvements;

5 (3) "Cost", all costs incurred in connection with an  
6 improvement, including, but not limited to, costs incurred for  
7 the preparation of preliminary reports, the preparation of plans  
8 and specifications, the preparation and publication of notices of  
9 hearings, resolutions, ordinances and other proceedings, fees and  
10 expenses of consultants, interest accrued on borrowed money  
11 during the period of construction, underwriting costs and other  
12 costs incurred in connection with the issuance of bonds or notes,  
13 establishment of reasonably required reserve funds for bonds or  
14 notes, the cost of land, materials, labor and other lawful  
15 expenses incurred in planning, acquiring and doing any  
16 improvement, reasonable construction contingencies, and work done  
17 or services performed by the city or county in the administration  
18 and supervision of the improvement;

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

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

1 (a) To acquire property or interests in property when  
2 necessary or desirable for any purpose authorized by sections  
3 67.453 to 67.475;

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

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

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

12 (e) To improve waterworks systems;

13 (f) To partner with a telecommunications company or  
14 broadband service provider in order to construct or improve  
15 telecommunications facilities which shall be wholly owned and  
16 operated by the telecommunications company or broadband service  
17 provider, as the terms "telecommunications company" and  
18 "telecommunications facilities" are defined in section 386.020  
19 and subject to the provisions of section 392.410, that are in an  
20 unserved or underserved area, as defined in section 620.2450.  
21 Before any facilities are improved or constructed as a result of  
22 this section, the area shall be certified as unserved or  
23 underserved by the director of broadband development within the  
24 department of economic development;

25 (g) To improve parks, playgrounds and recreational  
26 facilities;

27 [~~g~~] (h) To improve any street or other facility by  
28 landscaping, planting of trees, shrubs, and other plants;

1           ~~[(h)]~~ (i) To improve dikes, levees and other flood control  
2 works, gates, lift stations, bridges and streets appurtenant  
3 thereto;

4           ~~[(i)]~~ (j) To improve vehicle and pedestrian bridges,  
5 overpasses and tunnels;

6           ~~[(j)]~~ (k) To improve retaining walls and area walls on  
7 public ways or land abutting thereon;

8           ~~[(k)]~~ (l) To improve property for off-street parking  
9 facilities including construction and equipment of buildings  
10 thereon;

11           ~~[(l)]~~ (m) To acquire or improve any other public facilities  
12 or improvements deemed necessary by the governing body of the  
13 city or county; and

14           ~~[(m)]~~ (n) To improve public safety;

15           (6) "Neighborhood improvement district", an area of a city  
16 or county with defined limits and boundaries which is created by  
17 vote or by petition under sections 67.453 to 67.475 and which is  
18 benefitted by an improvement and subject to special assessments  
19 against the real property therein for the cost of the  
20 improvement.

21           67.1461. 1. Each district shall have all the powers,  
22 except to the extent any such power has been limited by the  
23 petition approved by the governing body of the municipality to  
24 establish the district, necessary to carry out and effectuate the  
25 purposes and provisions of sections 67.1401 to 67.1571 including,  
26 but not limited to, the following:

27           (1) To adopt, amend, and repeal bylaws, not inconsistent  
28 with sections 67.1401 to 67.1571, necessary or convenient to

1 carry out the provisions of sections 67.1401 to 67.1571;

2 (2) To sue and be sued;

3 (3) To make and enter into contracts and other instruments,  
4 with public and private entities, necessary or convenient to  
5 exercise its powers and carry out its duties pursuant to sections  
6 67.1401 to 67.1571;

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

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

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

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

19 (8) To levy and collect special assessments and taxes as  
20 provided in sections 67.1401 to 67.1571. However, no such  
21 assessments or taxes shall be levied on any property exempt from  
22 taxation pursuant to subdivision (5) of section 137.100. Those  
23 exempt pursuant to subdivision (5) of section 137.100 may  
24 voluntarily participate in the provisions of sections 67.1401 to  
25 67.1571;

26 (9) If the district is a political subdivision, to levy  
27 real property taxes and business license taxes in the county seat  
28 of a county of the first classification containing a population

1 of at least two hundred thousand, as provided in sections 67.1401  
2 to 67.1571. However, no such assessments or taxes shall be  
3 levied on any property exempt from taxation pursuant to  
4 subdivisions (2) and (5) of section 137.100. Those exempt  
5 pursuant to subdivisions (2) and (5) of section 137.100 may  
6 voluntarily participate in the provisions of sections 67.1401 to  
7 67.1571;

8 (10) If the district is a political subdivision, to levy  
9 sales taxes pursuant to sections 67.1401 to 67.1571;

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

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

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

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

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

21 (13) To loan money as provided in sections 67.1401 to  
22 67.1571;

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

26 (15) To enter into one or more agreements with the  
27 municipality for the purpose of abating any public nuisance  
28 within the boundaries of the district including, but not limited

1 to, the stabilization, repair or maintenance or demolition and  
2 removal of buildings or structures, provided that the  
3 municipality has declared the existence of a public nuisance;

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

7 (a) Pedestrian or shopping malls and plazas;

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

9 (c) Convention centers, arenas, aquariums, aviaries, and  
10 meeting facilities;

11 (d) Sidewalks, streets, alleys, bridges, ramps, tunnels,  
12 overpasses and underpasses, traffic signs and signals, utilities,  
13 drainage, water, storm and sewer systems, and other site  
14 improvements;

15 (e) Parking lots, garages, or other facilities;

16 (f) Lakes, dams, and waterways;

17 (g) Streetscape, lighting, benches or other seating  
18 furniture, trash receptacles, marquees, awnings, canopies, walls,  
19 and barriers;

20 (h) Telephone and information booths, bus stop and other  
21 shelters, rest rooms, and kiosks;

22 (i) Paintings, murals, display cases, sculptures, and  
23 fountains;

24 (j) Music, news, and child-care facilities; and

25 (k) Any other useful, necessary, or desired improvement;

26 (17) To dedicate to the municipality, with the  
27 municipality's consent, streets, sidewalks, parks, and other real  
28 property and improvements located within its boundaries for

1 public use;

2 (18) Within its boundaries and with the municipality's  
3 consent, to prohibit or restrict vehicular and pedestrian traffic  
4 and vendors on streets, alleys, malls, bridges, ramps, sidewalks,  
5 and tunnels and to provide the means for access by emergency  
6 vehicles to or in such areas;

7 (19) Within its boundaries, to operate or to contract for  
8 the provision of music, news, child-care, or parking facilities,  
9 and buses, minibuses, or other modes of transportation;

10 (20) Within its boundaries, to lease space for sidewalk  
11 café tables and chairs;

12 (21) Within its boundaries, to provide or contract for the  
13 provision of security personnel, equipment, or facilities for the  
14 protection of property and persons;

15 (22) Within its boundaries, to provide or contract for  
16 cleaning, maintenance, and other services to public and private  
17 property;

18 (23) To produce and promote any tourism, recreational or  
19 cultural activity or special event in the district by, but not  
20 limited to, advertising, decoration of any public place in the  
21 district, promotion of such activity and special events, and  
22 furnishing music in any public place;

23 (24) To support business activity and economic development  
24 in the district including, but not limited to, the promotion of  
25 business activity, development and retention, and the recruitment  
26 of developers and businesses;

27 (25) To provide or support training programs for employees  
28 of businesses within the district;

1 (26) To provide refuse collection and disposal services  
2 within the district;

3 (27) To contract for or conduct economic, planning,  
4 marketing or other studies;

5 (28) To repair, restore, or maintain any abandoned cemetery  
6 on public or private land within the district; and

7 (29) To partner with a telecommunications company or  
8 broadband service provider in order to construct or improve  
9 telecommunications facilities which shall be wholly owned and  
10 operated by the telecommunications company or broadband service  
11 provider, as the terms "telecommunications company" and  
12 "telecommunications facilities" are defined in section 386.020  
13 and subject to the provisions of section 392.410, that are in an  
14 unserved or underserved area, as defined in section 620.2450.  
15 Before any facilities are improved or constructed as a result of  
16 this section, the area shall be certified as unserved or  
17 underserved by the director of broadband development within the  
18 department of economic development;

19 (30) To carry out any other powers set forth in sections  
20 67.1401 to 67.1571.

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

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

28 (2) To expend its revenues or loan its revenues pursuant to

1 a contract entered into pursuant to this subsection, provided  
2 that the governing body of the municipality has determined that  
3 the action to be taken pursuant to such contract is reasonably  
4 anticipated to remediate the blighting conditions and will serve  
5 a public purpose.

6 3. Each district shall annually reimburse the municipality  
7 for the reasonable and actual expenses incurred by the  
8 municipality to establish such district and review annual budgets  
9 and reports of such district required to be submitted to the  
10 municipality; provided that, such annual reimbursement shall not  
11 exceed one and one-half percent of the revenues collected by the  
12 district in such year.

13 4. Nothing in sections 67.1401 to 67.1571 shall be  
14 construed to delegate to any district any sovereign right of  
15 municipalities to promote order, safety, health, morals, and  
16 general welfare of the public, except those such police powers,  
17 if any, expressly delegated pursuant to sections 67.1401 to  
18 67.1571.

19 5. The governing body of the municipality establishing the  
20 district shall not decrease the level of publicly funded services  
21 in the district existing prior to the creation of the district or  
22 transfer the financial burden of providing the services to the  
23 district unless the services at the same time are decreased  
24 throughout the municipality, nor shall the governing body  
25 discriminate in the provision of the publicly funded services  
26 between areas included in such district and areas not so  
27 included.

28 67.1846. 1. Nothing in sections 67.1830 to 67.1846

1     relieves the political subdivision of any obligations under an  
2     existing franchise agreement in effect on May 1, 2001. Nothing  
3     in sections 67.1830 to 67.1846 will apply to that portion of any  
4     ordinance passed prior to May 1, 2001, which establishes a street  
5     degradation fee. Nothing in sections 67.1830 to 67.1846 shall be  
6     construed as limiting the authority of county highway engineers  
7     or relieving public utility right-of-way users from any  
8     obligations set forth in chapters 229 to 231. Nothing in  
9     sections 67.1830 to 67.1846 shall be deemed to relieve a public  
10    utility right-of-way user of the provisions of an existing  
11    franchise, franchise fees, license or other agreement or permit  
12    in effect on May 1, 2001. Nothing in sections 67.1830 to 67.1846  
13    shall prohibit a political subdivision or public utility  
14    right-of-way user from renewing or entering into a new or  
15    existing franchise, as long as all other public utility  
16    right-of-way users have use of the public right-of-way on a  
17    nondiscriminatory basis. Nothing in sections 67.1830 to 67.1846  
18    shall prevent a grandfathered political subdivision from enacting  
19    new ordinances, including amendments of existing ordinances,  
20    charging a public utility right-of-way user a fair and reasonable  
21    linear foot fee or antenna fee or from enforcing or renewing  
22    existing linear foot ordinances for use of the right-of-way,  
23    provided that the public utility right-of-way user either:

24         (1) Is entitled under the ordinance to a credit for any  
25         amounts paid as business license taxes or gross receipts taxes;  
26         or

27         (2) Is not required by the political subdivision to pay the  
28         linear foot fee or antenna fee if the public utility right-of-way

1 user is paying gross receipts taxes, business license fees, or  
2 business license taxes that are not nominal and that are imposed  
3 specifically on communications-related revenue, services, or  
4 equipment.

5  
6 For purposes of this section, a "grandfathered political  
7 subdivision" is any political subdivision which has, prior to May  
8 1, 2001, enacted one or more ordinances reflecting a policy of  
9 imposing any linear foot fees on any public utility right-of-way  
10 user, including ordinances which were specific to particular  
11 public right-of-way users. Any existing ordinance or new  
12 ordinance passed by a grandfathered political subdivision  
13 providing for payment of the greater of a linear foot fee or a  
14 gross receipts tax shall be enforceable only with respect to the  
15 linear foot fee.

16 2. A grandfathered political subdivision shall not charge a  
17 linear foot fee for use of its right-of-way to a small local  
18 exchange telecommunications company, as defined in section  
19 386.020; provided that the small local exchange  
20 telecommunications company is providing internet access to  
21 customers within the rural areas of the state.

22 3. Nothing in sections 67.1830 to 67.1846 shall prohibit a  
23 political subdivision from enacting, renewing or enforcing  
24 provisions of an ordinance to require a business license tax,  
25 sales tax, occupation tax, franchise tax or franchise fee,  
26 property tax or other similar tax, to the extent consistent with  
27 federal law. Nothing in sections 67.1830 to 67.1846 shall  
28 prohibit a political subdivision from enacting, enforcing or

1 renewing provisions of an ordinance to require a gross receipts  
2 tax pursuant to chapter 66, chapter 92, or chapter 94. For  
3 purposes of this subsection, the term "franchise fee" shall mean  
4 "franchise tax".

5 67.5122. Sections 67.5110 to 67.5122 shall expire on  
6 January 1, [~~2021~~] 2025, except that for small wireless facilities  
7 already permitted or collocated on authority poles prior to such  
8 date, the rate set forth in section 67.5116 for collocation of  
9 small wireless facilities on authority poles shall remain  
10 effective for the duration of the permit authorizing the  
11 collocation.

12 392.020. 1. The original articles of association shall be  
13 recorded in the office of the recorder of deeds of the county in  
14 which the corporation is to be located, and then be filed in the  
15 office of the secretary of state, who shall carefully preserve  
16 the same in his office, and thereupon the subscribers and the  
17 persons who, from time to time, shall become stockholders in such  
18 company, and their successors, shall be a body politic and  
19 corporate, by the name stated in such articles of association,  
20 and shall have power to construct, own, operate and maintain  
21 lines of telephone and magnetic telegraph between such points as  
22 they may from time to time determine, and to make such reasonable  
23 charges for the use of the same as they may establish; and shall  
24 have power to lease or attach to their lines other telephone or  
25 telegraph lines by lease or purchase; and meetings of the  
26 stockholders or of the directors of such corporation may be held  
27 for the transaction of business as well without as within this  
28 state.

1           2. A copy of the articles of association, certified by the  
2 secretary of state or his deputy, under the seal of the state,  
3 shall be prima facie evidence of the incorporation of such  
4 company, and of the facts stated therein. Any such company,  
5 through its board of directors, with the consent of the persons  
6 holding the larger amount in value of the stock, shall have power  
7 to reduce its capital stock to any amount not below the actual  
8 cost of construction, and in like manner and with like consent to  
9 increase the capital stock from time to time as in their judgment  
10 may be necessary, not exceeding an amount which, when fully paid  
11 up, shall be required for the business of the company, which  
12 consent shall be obtained in the manner prescribed by law.

13           3. Any corporation formed for the purpose of section  
14 392.010, or operating under the provisions of subsection 1 of  
15 section 351.030, may amend the articles of association to include  
16 a statement referencing the corporation's operating designation  
17 as described in 26 U.S.C. Section 501(c)(12), as amended.

18           620.2451. Grants awarded under sections 620.2450 to  
19 620.2458 shall fund the acquisition and installation of retail  
20 broadband internet service at speeds of at least twenty-five  
21 megabits per-second download and three megabits per-second  
22 upload, but that is scalable to higher speeds. The department  
23 shall maintain a record of all federal grants awarded to entities  
24 for the purposes of providing, maintaining, and expanding rural  
25 broadband in the state of Missouri. In cases in which funds have  
26 been awarded by a federal agency but later retained, withheld, or  
27 otherwise not distributed to the original grant recipient due to  
28 failure to meet performance standards or other criteria, the

1 department shall seek to have the funds awarded to another  
2 eligible, qualified Missouri broadband provider.

3 620.2456. 1. The department of economic development shall  
4 not award any grant to an otherwise eligible grant applicant  
5 where funding from the Connect America Fund has been awarded,  
6 where high-cost support from the federal Universal Service Fund  
7 has been received by rate of return carriers, or where any other  
8 federal funding has been awarded which did not require any  
9 matching-fund component, for any portion of the proposed project  
10 area, nor shall any grant money be used to serve any retail end  
11 user that already has access to wireline or fixed wireless  
12 broadband internet service of speeds of at least twenty-five  
13 megabits per-second download and three megabits per-second  
14 upload.

15 2. No grant awarded under sections 620.2450 to 620.2458,  
16 when combined with any federal, state, or local funds, shall fund  
17 more than fifty percent of the total cost of a project.

18 3. No single project shall be awarded grants under sections  
19 620.2450 to 620.2458 whose cumulative total exceeds five million  
20 dollars.

21 4. The department of economic development shall endeavor to  
22 award grants under sections 620.2450 to 620.2458 to qualified  
23 applicants in all regions of the state.

24 5. An award granted under sections 620.2450 to 620.2458  
25 shall not:

- 26 (1) Require an open access network;  
27 (2) Impose rates, terms, and conditions that differ from  
28 what a provider offers in other areas of its service area;

1 (3) Impose any rate, service, or any other type of  
2 regulation beyond speed requirements set forth in section  
3 620.2451; or

4 (4) Impose an unreasonable time constraint on the time to  
5 build the service.

6 6. If a grant recipient fails to establish the speed  
7 requirements set forth in section 620.2451, then the grant  
8 recipient shall return all grant moneys to the department.

9 620.2459. Pursuant to section 23.253 of the Missouri sunset  
10 act:

11 (1) The provisions of the ~~[new]~~ program authorized under  
12 sections 620.2450, 620.2451, 620.2452, 620.2453, 620.2454,  
13 620.2455, 620.2456, 620.2457, and 620.2458 shall sunset  
14 ~~[automatically three years after August 28, 2018]~~ on June 30,  
15 2027, unless reauthorized by an act of the general assembly; and

16 (2) If such program is reauthorized, the program authorized  
17 under sections 620.2450, 620.2451, 620.2452, 620.2453, 620.2454,  
18 620.2455, 620.2456, 620.2457, and 620.2458 shall sunset  
19 automatically six years after the effective date of the  
20 reauthorization of sections 620.2450, 620.2451, 620.2452,  
21 620.2453, 620.2454, 620.2455, 620.2456, 620.2457, and 620.2458;  
22 and

23 (3) Sections 620.2450, 620.2451, 620.2452, 620.2453,  
24 620.2454, 620.2455, 620.2456, 620.2457, and 620.2458 shall  
25 terminate on September first of the calendar year immediately  
26 following the calendar year in which the program authorized under  
27 sections 620.2450, 620.2451, 620.2452, 620.2453, 620.2454,  
28 620.2455, 620.2456, 620.2457, and 620.2458 is sunset.

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Representative Louis Riggs

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Senator Dan Hegeman