

SECOND REGULAR SESSION

SENATE BILL NO. 755

95TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR GRIESHEIMER.

Read 1st time January 13, 2010, and ordered printed.

TERRY L. SPIELER, Secretary.

4406S.011

AN ACT

To repeal section 238.235, RSMo, and to enact in lieu thereof one new section relating to transportation development districts.

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

Section A. Section 238.235, RSMo, is repealed and one new section
2 enacted in lieu thereof, to be known as section 238.235, to read as follows:

238.235. 1. (1) Any transportation development district may by
2 resolution impose a transportation development district sales tax on all retail
3 sales made in such transportation development district which are subject to
4 taxation pursuant to the provisions of sections 144.010 to 144.525, RSMo, except
5 such transportation development district sales tax shall not apply to the sale or
6 use of motor vehicles, trailers, boats or outboard motors nor to all sales of
7 electricity or electrical current, water and gas, natural or artificial, nor to sales
8 of service to telephone subscribers, either local or long distance. Such
9 transportation development district sales tax may be imposed for any
10 transportation development purpose designated by the transportation
11 development district in its ballot of submission to its qualified voters, except that
12 no resolution enacted pursuant to the authority granted by this section shall be
13 effective unless:

14 (a) The board of directors of the transportation development district
15 submits to the qualified voters of the transportation development district a
16 proposal to authorize the board of directors of the transportation development
17 district to impose or increase the levy of an existing tax pursuant to the
18 provisions of this section; or

19 (b) The voters approved the question certified by the petition filed

EXPLANATION—Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

20 pursuant to subsection 5 of section 238.207.

21 (2) If the transportation district submits to the qualified voters of the
22 transportation development district a proposal to authorize the board of directors
23 of the transportation development district to impose or increase the levy of an
24 existing tax pursuant to the provisions of paragraph (a) of subdivision (1) of this
25 subsection, the ballot of submission shall contain, but need not be limited to, the
26 following language:

27 Shall the transportation development district of
28 (transportation development district's name) impose a transportation
29 development district-wide sales tax at the rate of (insert amount) for a
30 period of (insert number) years from the date on which such tax is first
31 imposed for the purpose of (insert transportation
32 development purpose)?

33 YES NO

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

36 If a majority of the votes cast on the proposal by the qualified voters voting
37 thereon are in favor of the proposal, then the resolution and any amendments
38 thereto shall be in effect. If a majority of the votes cast by the qualified voters
39 voting are opposed to the proposal, then the board of directors of the
40 transportation development district shall have no power to impose the sales tax
41 authorized by this section unless and until the board of directors of the
42 transportation development district shall again have submitted another proposal
43 to authorize it to impose the sales tax pursuant to the provisions of this section
44 and such proposal is approved by a majority of the qualified voters voting
45 thereon.

46 (3) [The sales tax authorized by this section shall become effective on the
47 first day of the second calendar quarter after the department of revenue receives
48 notification of the tax.

49 (4) In each transportation development district in which a sales tax has
50 been imposed in the manner provided by this section, every retailer shall add the
51 tax imposed by the transportation development district pursuant to this section
52 to the retailer's sale price, and when so added such tax shall constitute a part of
53 the price, shall be a debt of the purchaser to the retailer until paid, and shall be
54 recoverable at law in the same manner as the purchase price.

55 (5) In order to permit sellers required to collect and report the sales tax

56 authorized by this section to collect the amount required to be reported and
57 remitted, but not to change the requirements of reporting or remitting tax or to
58 serve as a levy of the tax, and in order to avoid fractions of pennies, the
59 transportation development district may establish appropriate brackets which
60 shall be used in the district imposing a tax pursuant to this section in lieu of
61 those brackets provided in section 144.285, RSMo] **Within ten days after the**
62 **adoption of any resolution in favor of the adoption of a transportation**
63 **development district sales tax which has been approved by the**
64 **qualified voters of such transportation development district, the**
65 **transportation development district shall forward to the director of**
66 **revenue, by United States registered mail or certified mail, a certified**
67 **copy of the resolution of its board of directors. The resolution shall**
68 **reflect the effective date thereof. The sales tax authorized by this**
69 **section shall become effective on the first day of the second calendar**
70 **quarter after the director of revenue receives notice of adoption of**
71 **such tax.**

72 [(6)] (4) All revenue received by a transportation development district
73 from the tax authorized by this section which has been designated for a certain
74 transportation development purpose shall be deposited in a special trust fund and
75 shall be used solely for such designated purpose. Upon the expiration of the
76 period of years approved by the qualified voters pursuant to subdivision (2) of this
77 subsection or if the tax authorized by this section is repealed pursuant to
78 subsection 6 of this section, all funds remaining in the special trust fund shall
79 continue to be used solely for such designated transportation development
80 purpose. Any funds in such special trust fund which are not needed for current
81 expenditures may be invested by the board of directors in accordance with
82 applicable laws relating to the investment of other transportation development
83 district funds.

84 [(7)] (5) The sales tax may be imposed in increments of one-eighth of one
85 percent, up to a maximum of one percent on the receipts from the sale at retail
86 of all tangible personal property or taxable services at retail within the
87 transportation development district adopting such tax, if such property and
88 services are subject to taxation by the state of Missouri pursuant to the
89 provisions of sections 144.010 to 144.525, RSMo, except [such transportation
90 development district sales tax shall not apply to the sale or use of motor vehicles,
91 trailers, boats or outboard motors nor to public utilities] **as provided in**

92 **subdivision (1) of this subsection.** Any transportation development district
93 sales tax imposed pursuant to this section shall be imposed at a rate that shall
94 be uniform throughout the district.

95 2. The resolution imposing the sales tax pursuant to this section shall
96 impose upon all sellers a tax for the privilege of engaging in the business of
97 selling tangible personal property or rendering taxable services at retail to the
98 extent and in the manner provided in sections 144.010 to 144.525, RSMo, and the
99 rules and regulations of the director of revenue issued pursuant thereto; except
100 that the rate of the tax shall be the rate imposed by the resolution as the sales
101 tax and the tax shall be reported and returned to and collected by the
102 [transportation development district] **director of revenue. The amount**
103 **reported and returned to the director of revenue by the seller shall be**
104 **computed on the basis of the combined rate of the tax imposed by**
105 **sections 144.010 to 144.525 and the tax imposed by the resolution as**
106 **authorized by this section, plus any amount imposed pursuant to other**
107 **provisions of law.**

108 3. On and after the effective date of any tax imposed pursuant to this
109 section, the director of revenue shall perform all functions incident to the
110 administration, collection, enforcement, and operation of the tax, and the director
111 of revenue shall collect, in addition to all other sales taxes imposed by law, the
112 additional tax authorized pursuant to this section. The tax imposed pursuant to
113 this section and the taxes imposed pursuant to all other laws of the state of
114 Missouri shall be collected together and reported upon such forms and pursuant
115 to such administrative rules and regulations as may be prescribed by the director
116 of revenue.

117 4. [(1)] All applicable provisions contained in sections 144.010 to 144.525,
118 RSMo, governing the state sales tax, sections 32.085 and 32.087, RSMo, and
119 section 32.057, RSMo, the uniform confidentiality provision, shall apply to the
120 collection of the tax imposed by this section, except as modified in this section.

121 [(2) All exemptions granted to agencies of government, organizations,
122 persons and to the sale of certain articles and items of tangible personal property
123 and taxable services pursuant to the provisions of sections 144.010 to 144.525,
124 RSMo, are hereby made applicable to the imposition and collection of the tax
125 imposed by this section.

126 (3) The same sales tax permit, exemption certificate and retail certificate
127 required by sections 144.010 to 144.525, RSMo, for the administration and

128 collection of the state sales tax shall satisfy the requirements of this section, and
129 no additional permit or exemption certificate or retail certificate shall be
130 required; except that the transportation development district may prescribe a
131 form of exemption certificate for an exemption from the tax imposed by this
132 section.

133 (4) All discounts allowed the retailer pursuant to the provisions of the
134 state sales tax laws for the collection of and for payment of taxes pursuant to
135 such laws are hereby allowed and made applicable to any taxes collected pursuant
136 to the provisions of this section.

137 (5) The penalties provided in section 32.057, RSMo, and sections 144.010
138 to 144.525, RSMo, for violation of those sections are hereby made applicable to
139 violations of this section.

140 (6) For the purpose of a sales tax imposed by a resolution pursuant to this
141 section, all retail sales except retail sales of motor vehicles shall be deemed to be
142 consummated at the place of business of the retailer unless the tangible personal
143 property sold is delivered by the retailer or the retailer's agent to an out-of-state
144 destination or to a common carrier for delivery to an out-of-state destination. In
145 the event a retailer has more than one place of business in this state which
146 participates in the sale, the sale shall be deemed to be consummated at the place
147 of business of the retailer where the initial order for the tangible personal
148 property is taken, even though the order must be forwarded elsewhere for
149 acceptance, approval of credit, shipment or billing. A sale by a retailer's
150 employee shall be deemed to be consummated at the place of business from which
151 the employee works.]

152 5. All [sales taxes] **revenue** received by the transportation development
153 district **from the tax authorized by this section which has been**
154 **designated for a certain transportation development purpose** shall be
155 deposited [by the director of revenue in a special fund to be expended for the
156 purposes authorized in this section. The director of revenue shall keep accurate
157 records of the amount of money which was collected pursuant to this section, and
158 the records shall be open to the inspection of officers of each transportation
159 development district and the general public] **in a special trust fund and shall**
160 **be used solely for such designated purpose. Upon the expiration of the**
161 **period of years approved by the qualified voters pursuant to subsection**
162 **1 of this section or if the tax authorized by this section is repealed**
163 **pursuant to subsection 8 of this section, all funds remaining in the**

164 special trust fund shall continue to be used solely for such designated
165 transportation development purpose. Any funds in such special trust
166 fund which are not needed for current expenditures may be invested
167 by the board of directors in accordance with applicable laws relating
168 to the investment of other transportation development district funds.

169 6. All sales taxes collected by the director of revenue pursuant
170 to this section on behalf of any transportation development district,
171 less one percent for the cost of collection, which shall be deposited in
172 the state's general revenue fund after payment of premiums for surety
173 bonds as provided in section 32.087, shall be deposited to the credit of
174 the "Transportation Development District Sales Tax Fund", which is
175 hereby created. Moneys in the transportation development district
176 sales tax fund shall not be deemed to be state funds and shall not be
177 commingled with any funds of the state. All interest earned upon the
178 balance in the transportation development district sales tax fund shall
179 be deposited to the credit of the same fund. Any balance in the fund at
180 the end of an appropriation period shall not be transferred to the
181 general revenue fund and the provisions of section 33.080 shall not
182 apply to the fund. The director of revenue shall keep accurate records
183 of the amount of money which was collected in each transportation
184 development district imposing a sales tax pursuant to this section, and
185 the records shall be open to the inspection of officers of each
186 transportation development district and the general public. Not later
187 than the tenth day of each month, the director of revenue shall
188 distribute all moneys deposited in such fund during the preceding
189 month to the proper transportation development district.

190 7. The director of revenue may make refunds from the amounts
191 credited to any transportation development district for erroneous
192 payments and overpayments made, and may redeem dishonored checks
193 and drafts deposited to the credit of such districts. If any
194 transportation development district repeals the tax authorized by this
195 section, the transportation development district shall notify the
196 director of revenue of the action at least ninety days prior to the
197 effective date of the repeal and the director of revenue may order
198 retention, for a period of one year, of two percent of the amount
199 collected after receipt of such notice to cover possible refunds or
200 overpayment of such tax and to redeem dishonored checks and drafts

201 **deposited to the credit of such accounts. After one year has elapsed**
202 **after the effective date of repeal of the tax authorized by this section**
203 **in such transportation development district, the director of revenue**
204 **shall remit the balance in the account to the transportation**
205 **development district and close the account of that transportation**
206 **development district. The director of revenue shall notify each**
207 **transportation development district of each instance of any amount**
208 **refunded or any check redeemed from receipts due the transportation**
209 **development district.**

210 [6.] 8. (1) No transportation development district imposing a sales tax
211 pursuant to this section may repeal or amend such sales tax unless such repeal
212 or amendment will not impair the district's ability to repay any liabilities which
213 it has incurred, money which it has borrowed or revenue bonds, notes or other
214 obligations which it has issued or which have been issued by the commission or
215 any local transportation authority to finance any project or projects.

216 (2) Whenever the board of directors of any transportation development
217 district in which a transportation development sales tax has been imposed in the
218 manner provided by this section receives a petition, signed by ten percent of the
219 qualified voters calling for an election to repeal such transportation development
220 sales tax, the board of directors shall, if such repeal will not impair the district's
221 ability to repay any liabilities which it has incurred, money which it has borrowed
222 or revenue bonds, notes or other obligations which it has issued or which have
223 been issued by the commission or any local transportation authority to finance
224 any project or projects, submit to the qualified voters of such transportation
225 development district a proposal to repeal the transportation development sales
226 tax imposed pursuant to the provisions of this section. If a majority of the votes
227 cast on the proposal by the qualified voters voting thereon are in favor of the
228 proposal to repeal the transportation development sales tax, then the resolution
229 imposing the transportation development sales tax, along with any amendments
230 thereto, is repealed. If a majority of the votes cast by the qualified voters voting
231 thereon are opposed to the proposal to repeal the transportation development
232 sales tax, then the ordinance or resolution imposing the transportation
233 development sales tax, along with any amendments thereto, shall remain in
234 effect.