

SECOND REGULAR SESSION
SENATE COMMITTEE SUBSTITUTE FOR
HOUSE BILL NO. 1768
100TH GENERAL ASSEMBLY

Reported from the Committee on Economic Development, April 28, 2020, with recommendation that the Senate Committee Substitute do pass.

4494S.04C

ADRIANE D. CROUSE, Secretary.

AN ACT

To repeal sections 67.453, 67.1461, 67.1842, 67.1846, 392.020, 620.2451, and 620.2459, RSMo, and to enact in lieu thereof seven 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Section A. Sections 67.453, 67.1461, 67.1842, 67.1846, 392.020, 620.2451, 2 and 620.2459, RSMo, are repealed and seven new sections enacted in lieu thereof, 3 to be known as sections 67.453, 67.1461, 67.1842, 67.1846, 392.020, 620.2451, and 4 620.2459, to read as follows:

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

4 (1) "Acquire", the acquisition of property or interests in property by 5 purchase, gift, condemnation or other lawful means and may include the 6 acquisition of existing property and improvements already owned by the city or 7 county;

8 (2) "Consultant", engineers, architects, planners, attorneys, financial 9 advisors, accountants, investment bankers and other persons deemed competent 10 to advise and assist the governing body of the city or county in planning and 11 making improvements;

12 (3) "Cost", all costs incurred in connection with an improvement, 13 including, but not limited to, costs incurred for the preparation of preliminary 14 reports, the preparation of plans and specifications, the preparation and 15 publication of notices of hearings, resolutions, ordinances and other proceedings,

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

16 fees and expenses of consultants, interest accrued on borrowed money during the
17 period of construction, underwriting costs and other costs incurred in connection
18 with the issuance of bonds or notes, establishment of reasonably required reserve
19 funds for bonds or notes, the cost of land, materials, labor and other lawful
20 expenses incurred in planning, acquiring and doing any improvement, reasonable
21 construction contingencies, and work done or services performed by the city or
22 county in the administration and supervision of the improvement;

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

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

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

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

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

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

40 (e) To improve waterworks systems;

41 (f) **To partner with a telecommunications company in order to**
42 **construct or improve telecommunications facilities which shall be**
43 **wholly owned and operated by the telecommunications company, as the**
44 **terms "telecommunications company" and "telecommunications**
45 **facilities" are defined in section 386.020 and subject to the provisions**
46 **of section 392.410, that are in an unserved or underserved area, as**
47 **defined in section 620.2450. Before any facilities are improved or**
48 **constructed as a result of this section, the area shall be certified as**
49 **unserved or underserved by the director of broadband development**
50 **within the department of economic development;**

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

52 [(g)] **(h)** To improve any street or other facility by landscaping, planting
53 of trees, shrubs, and other plants;

54 [(h)] **(i)** To improve dikes, levees and other flood control works, gates, lift
55 stations, bridges and streets appurtenant thereto;

56 [(i)] **(j)** To improve vehicle and pedestrian bridges, overpasses and
57 tunnels;

58 [(j)] **(k)** To improve retaining walls and area walls on public ways or land
59 abutting thereon;

60 [(k)] **(l)** To improve property for off-street parking facilities including
61 construction and equipment of buildings thereon;

62 [(l)] **(m)** To acquire or improve any other public facilities or
63 improvements deemed necessary by the governing body of the city or county; and

64 [(m)] **(n)** To improve public safety;

65 (6) "Neighborhood improvement district", an area of a city or county with
66 defined limits and boundaries which is created by vote or by petition under
67 sections 67.453 to 67.475 and which is benefitted by an improvement and subject
68 to special assessments against the real property therein for the cost of the
69 improvement.

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

6 (1) To adopt, amend, and repeal bylaws, not inconsistent with sections
7 67.1401 to 67.1571, necessary or convenient to carry out the provisions of sections
8 67.1401 to 67.1571;

9 (2) To sue and be sued;

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

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

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

17 (6) To acquire by purchase, lease, gift, grant, bequest, devise, or
18 otherwise, any real property within its boundaries, personal property, or any

19 interest in such property;

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

23 (8) To levy and collect special assessments and taxes as provided in
24 sections 67.1401 to 67.1571. However, no such assessments or taxes shall be
25 levied on any property exempt from taxation pursuant to subdivision (5) of section
26 137.100. Those exempt pursuant to subdivision (5) of section 137.100 may
27 voluntarily participate in the provisions of sections 67.1401 to 67.1571;

28 (9) If the district is a political subdivision, to levy real property taxes and
29 business license taxes in the county seat of a county of the first classification
30 containing a population of at least two hundred thousand, as provided in sections
31 67.1401 to 67.1571. However, no such assessments or taxes shall be levied on any
32 property exempt from taxation pursuant to subdivisions (2) and (5) of section
33 137.100. Those exempt pursuant to subdivisions (2) and (5) of section 137.100
34 may voluntarily participate in the provisions of sections 67.1401 to 67.1571;

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

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

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

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

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

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

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

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

51 (15) To enter into one or more agreements with the municipality for the
52 purpose of abating any public nuisance within the boundaries of the district
53 including, but not limited to, the stabilization, repair or maintenance or
54 demolition and removal of buildings or structures, provided that the municipality

55 has declared the existence of a public nuisance;

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

59 (a) Pedestrian or shopping malls and plazas;

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

61 (c) Convention centers, arenas, aquariums, aviaries, and meeting
62 facilities;

63 (d) Sidewalks, streets, alleys, bridges, ramps, tunnels, overpasses and
64 underpasses, traffic signs and signals, utilities, drainage, water, storm and sewer
65 systems, and other site improvements;

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

67 (f) Lakes, dams, and waterways;

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

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

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

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

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

75 (17) To dedicate to the municipality, with the municipality's consent,
76 streets, sidewalks, parks, and other real property and improvements located
77 within its boundaries for public use;

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

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

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

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

90 (22) Within its boundaries, to provide or contract for cleaning,

91 maintenance, and other services to public and private property;

92 (23) To produce and promote any tourism, recreational or cultural activity
93 or special event in the district by, but not limited to, advertising, decoration of
94 any public place in the district, promotion of such activity and special events, and
95 furnishing music in any public place;

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

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

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

102 (27) To contract for or conduct economic, planning, marketing or other
103 studies;

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

106 (29) **To partner with a telecommunications company in order to**
107 **construct or improve telecommunications facilities which shall be**
108 **wholly owned and operated by the telecommunications company, as the**
109 **terms "telecommunications company" and "telecommunications**
110 **facilities" are defined in section 386.020 and subject to the provisions**
111 **of section 392.410, that are in an unserved or underserved area, as**
112 **defined in section 620.2450. Before any facilities are improved or**
113 **constructed as a result of this section, the area shall be certified as**
114 **unserved or underserved by the director of broadband development**
115 **within the department of economic development;**

116 (30) To carry out any other powers set forth in sections 67.1401 to
117 67.1571.

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

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

123 (2) To expend its revenues or loan its revenues pursuant to a contract
124 entered into pursuant to this subsection, provided that the governing body of the
125 municipality has determined that the action to be taken pursuant to such
126 contract is reasonably anticipated to remediate the blighting conditions and will

127 serve a public purpose.

128 3. Each district shall annually reimburse the municipality for the
129 reasonable and actual expenses incurred by the municipality to establish such
130 district and review annual budgets and reports of such district required to be
131 submitted to the municipality; provided that, such annual reimbursement shall
132 not exceed one and one-half percent of the revenues collected by the district in
133 such year.

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

138 5. The governing body of the municipality establishing the district shall
139 not decrease the level of publicly funded services in the district existing prior to
140 the creation of the district or transfer the financial burden of providing the
141 services to the district unless the services at the same time are decreased
142 throughout the municipality, nor shall the governing body discriminate in the
143 provision of the publicly funded services between areas included in such district
144 and areas not so included.

 67.1842. 1. In managing the public right-of-way and in imposing fees
2 pursuant to sections 67.1830 to 67.1846, no political subdivision shall:

3 (1) Unlawfully discriminate among public utility right-of-way users;
4 (2) Grant a preference to any public utility right-of-way user;
5 (3) Create or erect any unreasonable requirement for entry to the public
6 right-of-way by public utility right-of-way users;

7 (4) Require a telecommunications company to obtain a franchise **or**
8 **written agreement, other than a permit**, or require a public utility
9 right-of-way user to pay for the use of the public right-of-way, except as provided
10 in sections 67.1830 to 67.1846;

11 (5) Enter into a contract or any other agreement for providing for an
12 exclusive use, occupancy or access to any public right-of-way; or

13 (6) Require any public utility that has legally been granted access to the
14 political subdivision's right-of-way to enter into an agreement or obtain a permit
15 for general access to or the right to remain in the right-of-way of the political
16 subdivision.

17 2. A public utility right-of-way user shall not be required to apply for or
18 obtain right-of-way permits for projects commenced prior to August 28, 2001,

19 requiring excavation within the public right-of-way, for which the user has
20 obtained the required consent of the political subdivision, or that are otherwise
21 lawfully occupying or performing work within the public right-of-way. The public
22 utility right-of-way user may be required to obtain right-of-way permits prior to
23 any excavation work performed within the public right-of-way after August 28,
24 2001.

25 3. A political subdivision shall not collect a fee imposed pursuant to
26 section 67.1840 through the provision of in-kind services by a public utility
27 right-of-way user, nor require the provision of in-kind services as a condition of
28 consent to use the political subdivision's public right-of-way; however, nothing in
29 this subsection shall preclude requiring services of a cable television operator,
30 open video system provider or other video programming provider as permitted by
31 federal law.

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

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

23 (2) Is not required by the political subdivision to pay the linear foot fee

24 or antenna fee if the public utility right-of-way user is paying gross receipts
25 taxes, business license fees, or business license taxes that are not nominal and
26 that are imposed specifically on communications-related revenue, services, or
27 equipment.

28 For purposes of this section, a "grandfathered political subdivision" is any
29 political subdivision which has, prior to May 1, 2001, enacted one or more
30 ordinances reflecting a policy of imposing any linear foot fees on any public utility
31 right-of-way user, including ordinances which were specific to particular public
32 right-of-way users. Any existing ordinance [or new ordinance] passed by a
33 grandfathered political subdivision providing for payment of the greater of a
34 linear foot fee or a gross receipts tax shall be enforceable only with respect to the
35 linear foot fee.

36 2. Nothing in sections 67.1830 to 67.1846 shall prohibit a political
37 subdivision from enacting, renewing or enforcing provisions of an ordinance to
38 require a business license tax, sales tax, occupation tax, franchise tax or franchise
39 fee, property tax or other similar tax, to the extent consistent with federal
40 law. Nothing in sections 67.1830 to 67.1846 shall prohibit a political subdivision
41 from enacting, enforcing or renewing provisions of an ordinance to require a gross
42 receipts tax pursuant to chapter 66, chapter 92, or chapter 94. For purposes of
43 this subsection, the term "franchise fee" shall mean "franchise tax".

392.020. 1. The original articles of association shall be recorded in the
2 office of the recorder of deeds of the county in which the corporation is to be
3 located, and then be filed in the office of the secretary of state, who shall carefully
4 preserve the same in his office, and thereupon the subscribers and the persons
5 who, from time to time, shall become stockholders in such company, and their
6 successors, shall be a body politic and corporate, by the name stated in such
7 articles of association, and shall have power to construct, own, operate and
8 maintain lines of telephone and magnetic telegraph between such points as they
9 may from time to time determine, and to make such reasonable charges for the
10 use of the same as they may establish; and shall have power to lease or attach to
11 their lines other telephone or telegraph lines by lease or purchase; and meetings
12 of the stockholders or of the directors of such corporation may be held for the
13 transaction of business as well without as within this state.

14 2. A copy of the articles of association, certified by the secretary of state
15 or his deputy, under the seal of the state, shall be prima facie evidence of the
16 incorporation of such company, and of the facts stated therein. Any such

17 company, through its board of directors, with the consent of the persons holding
18 the larger amount in value of the stock, shall have power to reduce its capital
19 stock to any amount not below the actual cost of construction, and in like manner
20 and with like consent to increase the capital stock from time to time as in their
21 judgment may be necessary, not exceeding an amount which, when fully paid up,
22 shall be required for the business of the company, which consent shall be
23 obtained in the manner prescribed by law.

24 **3. Any corporation formed for the purpose of section 392.010, or**
25 **operating under the provisions of subsection 1 of section 351.030, may**
26 **amend the articles of association to include a statement referencing the**
27 **corporation's operating designation as described in 26 U.S.C. Section**
28 **501(c)(12), as amended.**

620.2451. Grants awarded under sections 620.2450 to 620.2458 shall fund
2 the acquisition and installation of retail broadband internet service at speeds of
3 at least twenty-five megabits per-second download and three megabits per-second
4 upload, but that is scalable to higher speeds. **The department shall maintain**
5 **a record of all federal grants awarded to entities for the purposes of**
6 **providing, maintaining, and expanding rural broadband in the state of**
7 **Missouri. In cases in which funds have been awarded by a federal**
8 **agency but later retained, withheld, or otherwise not distributed to the**
9 **original grant recipient due to failure to meet performance standards**
10 **or other criteria, the department shall seek to have the funds awarded**
11 **to another eligible, qualified Missouri broadband provider.**

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

2 (1) The provisions of the [new] program authorized under sections
3 620.2450, 620.2451, 620.2452, 620.2453, 620.2454, 620.2455, 620.2456, 620.2457,
4 and 620.2458 shall sunset [automatically three years after August 28, 2018] **on**
5 **June 30, 2027**, unless reauthorized by an act of the general assembly; and

6 (2) If such program is reauthorized, the program authorized under
7 sections 620.2450, 620.2451, 620.2452, 620.2453, 620.2454, 620.2455, 620.2456,
8 620.2457, and 620.2458 shall sunset automatically six years after the effective
9 date of the reauthorization of sections 620.2450, 620.2451, 620.2452, 620.2453,
10 620.2454, 620.2455, 620.2456, 620.2457, and 620.2458; and

11 (3) Sections 620.2450, 620.2451, 620.2452, 620.2453, 620.2454, 620.2455,
12 620.2456, 620.2457, and 620.2458 shall terminate on September first of the
13 calendar year immediately following the calendar year in which the program

14 authorized under sections 620.2450, 620.2451, 620.2452, 620.2453, 620.2454,
15 620.2455, 620.2456, 620.2457, and 620.2458 is sunset.

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