

SECOND REGULAR SESSION  
[TRULY AGREED TO AND FINALLY PASSED]  
CONFERENCE COMMITTEE SUBSTITUTE NO. 2 FOR  
SENATE SUBSTITUTE FOR  
SENATE COMMITTEE SUBSTITUTE FOR

# HOUSE BILL NO. 1768

## 100TH GENERAL ASSEMBLY

4494H.10T

2020

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### 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.

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*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Section A. Sections 67.453, 67.1461, 67.1846, 67.5122, 392.020, 620.2451, 620.2456, 2 and 620.2459, RSMo, are repealed and eight new sections enacted in lieu thereof, to be known 3 as sections 67.453, 67.1461, 67.1846, 67.5122, 392.020, 620.2451, 620.2456, and 620.2459, to 4 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;

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.

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  
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 partner with a telecommunications company or broadband service provider**  
36 **in order to construct or improve telecommunications facilities which shall be wholly owned**  
37 **and operated by the telecommunications company or broadband service provider, as the**  
38 **terms "telecommunications company" and "telecommunications facilities" are defined in**  
39 **section 386.020 and subject to the provisions of section 392.410, that are in an unserved or**  
40 **underserved area, as defined in section 620.2450. Before any facilities are improved or**  
41 **constructed as a result of this section, the area shall be certified as unserved or**  
42 **underserved by the director of broadband development within the department of economic**  
43 **development;**

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

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

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

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

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

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

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

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

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

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

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

7           (2) To sue and be sued;

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

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

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

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

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

19           (8) To levy and collect special assessments and taxes as provided in sections 67.1401  
20 to 67.1571. However, no such assessments or taxes shall be levied on any property exempt from

21 taxation pursuant to subdivision (5) of section 137.100. Those exempt pursuant to subdivision  
22 (5) of section 137.100 may voluntarily participate in the provisions of sections 67.1401 to  
23 67.1571;

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

30 (10) If the district is a political subdivision, to levy sales taxes pursuant to sections  
31 67.1401 to 67.1571;

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

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

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

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

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

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

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

43 (15) To enter into one or more agreements with the municipality for the purpose of  
44 abating any public nuisance within the boundaries of the district including, but not limited to,  
45 the stabilization, repair or maintenance or demolition and removal of buildings or structures,  
46 provided that the municipality has declared the existence of a public nuisance;

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

49 (a) Pedestrian or shopping malls and plazas;

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

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

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

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

56 (f) Lakes, dams, and waterways;

- 57 (g) Streetscape, lighting, benches or other seating furniture, trash receptacles, marquees,  
58 awnings, canopies, walls, and barriers;
- 59 (h) Telephone and information booths, bus stop and other shelters, rest rooms, and  
60 kiosks;
- 61 (i) Paintings, murals, display cases, sculptures, and fountains;
- 62 (j) Music, news, and child-care facilities; and
- 63 (k) Any other useful, necessary, or desired improvement;
- 64 (17) To dedicate to the municipality, with the municipality's consent, streets, sidewalks,  
65 parks, and other real property and improvements located within its boundaries for public use;
- 66 (18) Within its boundaries and with the municipality's consent, to prohibit or restrict  
67 vehicular and pedestrian traffic and vendors on streets, alleys, malls, bridges, ramps, sidewalks,  
68 and tunnels and to provide the means for access by emergency vehicles to or in such areas;
- 69 (19) Within its boundaries, to operate or to contract for the provision of music, news,  
70 child-care, or parking facilities, and buses, minibuses, or other modes of transportation;
- 71 (20) Within its boundaries, to lease space for sidewalk café tables and chairs;
- 72 (21) Within its boundaries, to provide or contract for the provision of security personnel,  
73 equipment, or facilities for the protection of property and persons;
- 74 (22) Within its boundaries, to provide or contract for cleaning, maintenance, and other  
75 services to public and private property;
- 76 (23) To produce and promote any tourism, recreational or cultural activity or special  
77 event in the district by, but not limited to, advertising, decoration of any public place in the  
78 district, promotion of such activity and special events, and furnishing music in any public place;
- 79 (24) To support business activity and economic development in the district including,  
80 but not limited to, the promotion of business activity, development and retention, and the  
81 recruitment of developers and businesses;
- 82 (25) To provide or support training programs for employees of businesses within the  
83 district;
- 84 (26) To provide refuse collection and disposal services within the district;
- 85 (27) To contract for or conduct economic, planning, marketing or other studies;
- 86 (28) To repair, restore, or maintain any abandoned cemetery on public or private land  
87 within the district; and
- 88 **(29) To partner with a telecommunications company or broadband service provider**  
89 **in order to construct or improve telecommunications facilities which shall be wholly owned**  
90 **and operated by the telecommunications company or broadband service provider, as the**  
91 **terms "telecommunications company" and "telecommunications facilities" are defined in**  
92 **section 386.020 and subject to the provisions of section 392.410, that are in an unserved or**

93 **underserved area, as defined in section 620.2450. Before any facilities are improved or**  
94 **constructed as a result of this section, the area shall be certified as unserved or**  
95 **underserved by the director of broadband development within the department of economic**  
96 **development;**

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

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

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

103 (2) To expend its revenues or loan its revenues pursuant to a contract entered into  
104 pursuant to this subsection, provided that the governing body of the municipality has determined  
105 that the action to be taken pursuant to such contract is reasonably anticipated to remediate the  
106 blighting conditions and will serve a public purpose.

107 3. Each district shall annually reimburse the municipality for the reasonable and actual  
108 expenses incurred by the municipality to establish such district and review annual budgets and  
109 reports of such district required to be submitted to the municipality; provided that, such annual  
110 reimbursement shall not exceed one and one-half percent of the revenues collected by the district  
111 in such year.

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

116 5. The governing body of the municipality establishing the district shall not decrease the  
117 level of publicly funded services in the district existing prior to the creation of the district or  
118 transfer the financial burden of providing the services to the district unless the services at the  
119 same time are decreased throughout the municipality, nor shall the governing body discriminate  
120 in the provision of the publicly funded services between areas included in such district and areas  
121 not so included.

67.1846. 1. Nothing in sections 67.1830 to 67.1846 relieves the political subdivision  
2 of any obligations under an existing franchise agreement in effect on May 1, 2001. Nothing in  
3 sections 67.1830 to 67.1846 will apply to that portion of any ordinance passed prior to May 1,  
4 2001, which establishes a street degradation fee. Nothing in sections 67.1830 to 67.1846 shall  
5 be construed as limiting the authority of county highway engineers or relieving public utility  
6 right-of-way users from any obligations set forth in chapters 229 to 231. Nothing in sections  
7 67.1830 to 67.1846 shall be deemed to relieve a public utility right-of-way user of the provisions

8 of an existing franchise, franchise fees, license or other agreement or permit in effect on May 1,  
9 2001. Nothing in sections 67.1830 to 67.1846 shall prohibit a political subdivision or public  
10 utility right-of-way user from renewing or entering into a new or existing franchise, as long as  
11 all other public utility right-of-way users have use of the public right-of-way on a  
12 nondiscriminatory basis. Nothing in sections 67.1830 to 67.1846 shall prevent a grandfathered  
13 political subdivision from enacting new ordinances, including amendments of existing  
14 ordinances, charging a public utility right-of-way user a fair and reasonable linear foot fee or  
15 antenna fee or from enforcing or renewing existing linear foot ordinances for use of the  
16 right-of-way, provided that the public utility right-of-way user either:

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

19 (2) Is not required by the political subdivision to pay the linear foot fee or antenna fee  
20 if the public utility right-of-way user is paying gross receipts taxes, business license fees, or  
21 business license taxes that are not nominal and that are imposed specifically on  
22 communications-related revenue, services, or equipment.

23

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

30 **2. A grandfathered political subdivision shall not charge a linear foot fee for use**  
31 **of its right-of-way to a small local exchange telecommunications company as of December**  
32 **31, 2019, as defined in section 386.020; provided that the small local exchange**  
33 **telecommunications company is providing internet access to customers within the rural**  
34 **areas of the state.**

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

67.5122. Sections 67.5110 to 67.5122 shall expire on January 1, ~~2021~~ **2025**, except that  
2 for small wireless facilities already permitted or collocated on authority poles prior to such date,

3 the rate set forth in section 67.5116 for collocation of small wireless facilities on authority poles  
4 shall remain effective for the duration of the permit authorizing the collocation.

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

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

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

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

620.2456. 1. The department of economic development shall not award any grant to an  
2 otherwise eligible grant applicant where funding from the Connect America Fund has been



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

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

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

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

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

16 (1) Require an open access network;

17 (2) Impose rates, terms, and conditions that differ from what a provider offers in other  
18 areas of its service area;

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

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

22 **6. If a grant recipient fails to establish the speed requirements set forth in section**  
23 **620.2451, then the grant recipient shall return all grant moneys to the department.**

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

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

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

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

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