

SECOND REGULAR SESSION

HOUSE BILL NO. 1995

91ST GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVES DEMPSEY, BEARDEN, HENDRICKSON, DOLAN,
SCOTT (Co-sponsors) AND OSTMANN.

Read 1st time February 20, 2002, and 1000 copies ordered printed.

TED WEDEL, Chief Clerk

3900L.011

AN ACT

To repeal section 137.073, RSMo, and to enact in lieu thereof one new section relating to property taxes.

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

Section A. Section 137.073, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 137.073, to read as follows:

137.073. 1. As used in this section, the following terms mean:

(1) "General reassessment", changes in value, entered in the assessor's books, of a substantial portion of the parcels of real property within a county resulting wholly or partly from reappraisal of value or other actions of the assessor or county equalization body or ordered by the state tax commission or any court;

(2) "Tax rate", "rate", or "rate of levy", singular or plural, includes the tax rate for each purpose of taxation of property a taxing authority is authorized to levy without a vote and any tax rate authorized by election, including bond interest and sinking fund;

(3) "Tax rate ceiling", a tax rate as revised by the taxing authority to comply with the provisions of this section or when a court has determined the tax rate; except that, other provisions of law to the contrary notwithstanding, a school district may levy the operating levy for school purposes required for the current year pursuant to subsection 2 of section 163.021, RSMo, less all adjustments required pursuant to article X, section 22 of the Missouri Constitution, if such tax rate does not exceed the highest tax rate in effect subsequent to the 1980 tax year. This is the maximum tax rate that may be levied, unless a higher tax rate ceiling is approved by voters of the political subdivision as provided in this section;

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

17 (4) "Tax revenue", when referring to the previous year, means the actual receipts from
18 ad valorem levies on all classes of property, including state-assessed property, in the immediately
19 preceding fiscal year of the political subdivision, plus an allowance for taxes billed but not
20 collected in the fiscal year and plus an additional allowance for the revenue which would have
21 been collected from property which was annexed by such political subdivision but which was
22 not previously used in determining tax revenue pursuant to this section. The term "tax revenue"
23 shall not include any receipts from ad valorem levies on any property of a railroad corporation
24 or a public utility, as these terms are defined in section 386.020, RSMo, which were assessed by
25 the assessor of a county or city in the previous year but are assessed by the state tax commission
26 in the current year. All school districts and those counties levying sales taxes pursuant to chapter
27 67, RSMo, shall include in the calculation of tax revenue an amount equivalent to that by which
28 they reduced property tax levies as a result of sales tax pursuant to section 67.505, RSMo, and
29 section 164.013, RSMo, in the immediately preceding fiscal year but not including any amount
30 calculated to adjust for prior years. For purposes of political subdivisions which were authorized
31 to levy a tax in the prior year but which did not levy such tax or levied a reduced rate, the term
32 "tax revenue", as used in relation to the revision of tax levies mandated by law, shall mean the
33 revenues equal to the amount that would have been available if the voluntary rate reduction had
34 not been made.

35 2. Whenever changes in assessed valuation are entered in the assessor's books, the county
36 clerk in all counties and the assessor of St. Louis City shall notify each political subdivision
37 wholly or partially within the county or St. Louis City of the change in valuation, exclusive of
38 new construction and improvements. All political subdivisions shall immediately revise the rates
39 of levy for each purpose for which taxes are levied to the extent necessary to produce from all
40 taxable property, exclusive of new construction and improvements, substantially the same
41 amount of tax revenue as was produced in the previous year, except that the rate may not exceed
42 the greater of the rate in effect in the 1984 tax year or the most recent voter-approved rate. As
43 provided in section 22 of article X of the constitution, a political subdivision may also revise
44 each levy to allow for inflationary assessment growth occurring within the political subdivision.
45 The inflationary growth factor shall be limited to the actual assessment growth within the
46 political subdivision, exclusive of new construction and improvements, but not to exceed the
47 consumer price index or five percent, whichever is lower.

48 3. (1) Where the taxing authority is a school district, it shall be required to revise the
49 rates of levy to the extent necessary to produce from all taxable property, including state-assessed
50 railroad and utility property, which shall be separately estimated in addition to other data
51 required in complying with section 164.011, RSMo, substantially the amount of tax revenue
52 permitted in this section. In the year following tax rate reduction, the tax rate ceiling may be

53 adjusted to offset such district's reduction in the apportionment of state school moneys due to its
54 reduced tax rate. However, in the event any school district, in calculating a tax rate ceiling
55 pursuant to this section, requiring the estimating of effects of state-assessed railroad and utility
56 valuation or loss of state aid, discovers that the estimates used result in receipt of excess
57 revenues, which would have required a lower rate if the actual information had been known, the
58 school district shall reduce the tax rate ceiling in the following year to compensate for the excess
59 receipts, and the recalculated rate shall become the tax rate ceiling for purposes of this section.

60 (2) For any political subdivision which experiences a reduction in the amount of assessed
61 valuation relating to a prior year, due to decisions of the state tax commission or a court pursuant
62 to sections 138.430 to 138.433, RSMo, or due to clerical errors or corrections in the calculation
63 or recordation of any assessed valuation:

64 (a) Such political subdivision may revise the tax rate ceiling for each purpose it levies
65 taxes to compensate for the reduction in assessed value occurring after the political subdivision
66 calculated the tax rate ceiling in the prior year. Such revision by the political subdivision shall
67 be made at the time of the next calculation of the tax rate after the reduction in assessed valuation
68 has been determined and shall be calculated in a manner that results in the revised tax rate ceiling
69 being the same as it would have been had the corrected or finalized assessment been available
70 at the time of the prior calculation;

71 (b) In addition, for up to three years following the determination of the reduction in
72 assessed valuation as a result of circumstances defined in this subdivision, such political
73 subdivision may levy a tax rate for each purpose it levies taxes above the revised tax rate ceiling
74 provided in paragraph (a) of this subdivision to recoup any revenues it was entitled to receive for
75 the three-year period preceding such determination.

76 4. (1) In order to implement the provisions of this section and section 22 of article X of
77 the Constitution of Missouri, the term "improvements" shall apply to both real and personal
78 property. In order to determine the value of new construction and improvements, each county
79 assessor shall maintain a record of real property valuations in such a manner as to identify each
80 year the increase in valuation for each political subdivision in the county as a result of new
81 construction and improvements. The value of new construction and improvements shall include
82 the additional assessed value of all improvements or additions to real property which were begun
83 after and were not part of the prior year's assessment, except that the additional assessed value
84 of all improvements or additions to real property which had been totally or partially exempt from
85 ad valorem taxes pursuant to sections 99.800 to 99.865, RSMo, sections 135.200 to 135.255,
86 RSMo, and section 353.110, RSMo, shall be included in the value of new construction and
87 improvements when the property becomes totally or partially subject to assessment and payment
88 of all ad valorem taxes. The aggregate increase in valuation of personal property for the current

89 year over that of the previous year is the equivalent of the new construction and improvements
90 factor for personal property. The assessor shall certify the amount of new construction and
91 improvements for each political subdivision to the county clerk in order that political
92 subdivisions shall have this information for the purpose of calculating tax rates pursuant to this
93 section and section 22, article X, Constitution of Missouri. In addition, the state tax commission
94 shall certify each year to each county clerk the increase in the general price level as measured by
95 the Consumer Price Index for All Urban Consumers for the United States, or its successor
96 publications, as defined and officially reported by the United States Department of Labor, or its
97 successor agency. The state tax commission shall certify the increase in such index on the latest
98 twelve-month basis available on June first of each year over the immediately preceding prior
99 twelve-month period in order that political subdivisions shall have this information available in
100 setting their tax rates according to law and section 22 of article X of the Constitution of Missouri.
101 For purposes of implementing the provisions of this section and section 22 of article X of the
102 Missouri Constitution, the term "property" means all taxable property, including state assessed
103 property.

104 (2) Each political subdivision required to revise rates of levy pursuant to this section or
105 section 22 of article X of the Constitution of Missouri shall calculate each tax rate it is authorized
106 to levy and, in establishing each tax rate, shall consider each provision for tax rate revision
107 provided in this section and section 22 of article X of the Constitution of Missouri, separately
108 and without regard to annual tax rate reductions provided in section 67.505, RSMo, and section
109 164.013, RSMo. Each political subdivision shall set each tax rate it is authorized to levy using
110 the calculation that produces the lowest tax rate ceiling. It is further the intent of the general
111 assembly, pursuant to the authority of section 10(c) of article X of the Constitution of Missouri,
112 that the provisions of such section be applicable to tax rate revisions mandated pursuant to
113 section 22 of article X of the Constitution of Missouri as to reestablishing tax rates as revised in
114 subsequent years, enforcement provisions, and other provisions not in conflict with section 22
115 of article X of the Constitution of Missouri. Annual tax rate reductions provided in section
116 67.505, RSMo, and section 164.013, RSMo, shall be applied to the tax rate as established
117 pursuant to this section and section 22 of article X of the Constitution of Missouri, unless
118 otherwise provided by law.

119 5. (1) In all political subdivisions, the tax rate ceiling established pursuant to this section
120 shall not be increased unless approved by a vote of the people. Approval of the higher tax rate
121 shall be by at least a majority of votes cast. When a proposed higher tax rate requires approval
122 by more than a simple majority pursuant to any provision of law or the constitution, the tax rate
123 increase must receive approval by at least the majority required.

124 (2) When voters approve an increase in the tax rate, the amount of the increase shall be

125 added to the tax rate ceiling as calculated pursuant to this section to the extent the total rate does
126 not exceed any maximum rate prescribed by law. If a ballot question presents a stated tax rate
127 for approval rather than describing the amount of increase in the question, the stated tax rate
128 approved shall be the current tax rate ceiling. The increased tax rate ceiling as approved may be
129 applied to the total assessed valuation of the political subdivision at the setting of the next tax
130 rate.

131 (3) The governing body of any political subdivision may levy a tax rate lower than its
132 tax rate ceiling [and may increase that lowered tax rate to a level not exceeding the tax rate
133 ceiling without voter approval], **but no political subdivision may levy a tax rate higher than**
134 **the tax rate calculated pursuant to this section or raise any tax rate to a level higher than**
135 **the calculated tax rate but not exceeding the tax rate ceiling without voter approval.**

136 6. Each taxing authority proposing to levy a tax rate in any year shall notify the clerk of
137 the county commission in the county or counties where the tax rate applies of its tax rate ceiling
138 and its proposed tax rate. Each taxing authority shall express its proposed tax rate in a fraction
139 equal to the nearest one/one hundredth of a cent. A taxing authority shall round up a fraction
140 greater than or equal to five/one thousandth of one cent to the next higher one/one hundredth of
141 a cent. Any taxing authority levying a property tax rate shall provide data, in such form as shall
142 be prescribed by the state auditor by rule, substantiating such tax rate complies with Missouri
143 law. In addition, each taxing authority proposing to levy a tax rate for debt service shall provide
144 data, in such form as shall be prescribed by the state auditor by rule, substantiating the tax rate
145 for debt service complies with Missouri law. A tax rate proposed for annual debt service
146 requirements will be prima facie valid if, after making the payment for which the tax was levied,
147 bonds remain outstanding and the debt fund reserves do not exceed the following year's
148 payments. The county clerk shall keep on file and available for public inspection all such
149 information for a period of three years. The clerk shall, within three days of receipt, forward a
150 copy of the notice of a taxing authority's tax rate ceiling and proposed tax rate and any
151 substantiating data to the state auditor. The state auditor shall, within fifteen days of the date of
152 receipt, examine such information and return to the county clerk [his or her] **the state auditor's**
153 findings as to compliance of the tax rate ceiling with this section and as to compliance of any
154 proposed tax rate for debt service with Missouri law. If the [state auditor believes that a] taxing
155 authority's proposed tax rate does not comply with Missouri law **or the voters have not**
156 **approved an increase in the tax rate or tax rate ceiling pursuant to this section**, then the
157 state auditor's findings shall include a recalculated tax rate, and the state auditor may request a
158 taxing authority to submit documentation supporting such taxing authority's proposed tax rate.
159 The county clerk shall immediately forward a copy of the auditor's findings to the taxing
160 authority and shall file a copy of the findings with the information received from the taxing

161 authority. The taxing authority shall have fifteen days from the date of receipt from the county
162 clerk of the state auditor's findings and any request for supporting documentation to accept or
163 reject in writing the rate change certified by the state auditor and to submit all requested
164 information to the state auditor. A copy of the taxing authority's acceptance or rejection and any
165 information submitted to the state auditor shall also be mailed to the county clerk. If a taxing
166 authority rejects a rate change certified by the state auditor and the state auditor does not receive
167 supporting information which justifies the taxing authority's original or any subsequent proposed
168 tax rate, then the state auditor shall refer the perceived violations of such taxing authority to the
169 attorney general's office and the attorney general [is authorized to] **shall** obtain injunctive relief
170 to prevent the taxing authority from levying a violative tax rate.

171 7. No tax rate shall be extended on the tax rolls by the county clerk unless the political
172 subdivision has complied with [the foregoing provisions of] this section.

173 8. Whenever a taxpayer has cause to believe that a taxing authority has not complied
174 with [the provisions of] this section, the taxpayer may make a formal complaint with the
175 prosecuting attorney of the county. Where the prosecuting attorney fails to bring an action within
176 ten days of the filing of the complaint, the taxpayer may bring a civil action pursuant to this
177 section and institute an action as representative of a class of all taxpayers within a taxing
178 authority if the class is so numerous that joinder of all members is impracticable, if there are
179 questions of law or fact common to the class, if the claims or defenses of the representative
180 parties are typical of the claims or defenses of the class, and if the representative parties will
181 fairly and adequately protect the interests of the class. In any class action maintained pursuant
182 to this section, the court may direct to the members of the class a notice to be published at least
183 once each week for four consecutive weeks in a newspaper of general circulation published in
184 the county where the civil action is commenced and in other counties within the jurisdiction of
185 a taxing authority. The notice shall advise each member that the court will exclude [him or her]
186 **the member** from the class if [he or she] **the member** so requests by a specified date, that the
187 judgment, whether favorable or not, will include all members who do not request exclusion, and
188 that any member who does not request exclusion may, if [he or she] **the member** desires, enter
189 an appearance. In any class action brought pursuant to this section, the court, in addition to the
190 relief requested, shall assess against the taxing authority found to be in violation of this section
191 the reasonable costs of bringing the action, including reasonable attorney's fees, provided no
192 attorney's fees shall be awarded any attorney or association of attorneys who receive public funds
193 from any source for their services. Any action brought pursuant to this section shall be set for
194 hearing as soon as practicable after the cause is at issue.

195 9. If in any action, including a class action, the court issues an order requiring a taxing
196 authority to revise the tax rates as provided in this section or enjoins a taxing authority from the

197 collection of a tax because of its failure to revise the rate of levy as provided in this section, any
198 taxpayer paying [his or her] taxes when an improper rate is applied has erroneously paid [his or
199 her] taxes in part, whether or not the taxes are paid under protest as provided in section 139.031,
200 RSMo. The part of the taxes paid erroneously is the difference in the amount produced by the
201 original levy and the amount produced by the revised levy. The township or county collector of
202 taxes or the collector of taxes in any city shall refund the amount of the tax erroneously paid.
203 The taxing authority refusing to revise the rate of levy as provided in this section shall make
204 available to the collector all funds necessary to make refunds pursuant to this subsection. No
205 taxpayer shall receive any interest on any money erroneously paid [by him or her] pursuant to
206 this subsection. Effective in the 1994 tax year, nothing in this section shall be construed to
207 require a taxing authority to refund any tax erroneously paid prior to or during the third tax year
208 preceding the current tax year.

209 10. A taxing authority, including but not limited to a township, county collector, or
210 collector of taxes, responsible for determining and collecting the amount of residential real
211 property tax levied in its jurisdiction, shall report such amount of tax collected by December
212 thirty-first of each year such property is assessed, to the state tax commission. The state tax
213 commission shall compile the tax data by county or taxing jurisdiction and submit a report to the
214 general assembly no later than January thirty-first of the following year.