

FIRST REGULAR SESSION

HOUSE BILL NO. 686

93RD GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE WOOD.

Read 1st time March 2, 2005 and copies ordered printed.

STEPHEN S. DAVIS, Chief Clerk

1783L.011

AN ACT

To repeal sections 56.060, 56.631, 56.640, 56.650, 56.660, 67.1922, and 67.1934, RSMo, and to enact in lieu thereof seven new sections relating to county government.

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

Section A. Sections 56.060, 56.631, 56.640, 56.650, 56.660, 67.1922, and 67.1934, RSMo, are repealed and seven new sections enacted in lieu thereof, to be known as sections 56.060, 56.631, 56.640, 56.650, 56.660, 67.1922, and 67.1934, to read as follows:

56.060. 1. Each prosecuting attorney shall commence and prosecute all civil and criminal actions in his county in which the county or state is concerned, defend all suits against the state or county, and prosecute forfeited recognizances and actions for the recovery of debts, fines, penalties and forfeitures accruing to the state or county. In all cases, civil and criminal, in which changes of venue are granted, he shall follow and prosecute or defend, as the case may be, all the causes, for which, in addition to the fees now allowed by law, he shall receive his actual expenses. If any misdemeanor case is taken to the court of appeals by appeal he shall represent the state in the case in the court and make out and cause to be printed, at the expense of the county, all necessary abstracts of record and briefs, and if necessary appear in the court in person, or shall employ some attorney at his own expense to represent the state in the court, and for his services he shall receive the compensation that is proper, not to exceed twenty-five dollars for each case, and necessary traveling expenses, to be audited and paid as other claims are audited and paid by the county commission of the county.

2. Notwithstanding the provisions of subsection 1, in any county [of the first class not having a charter form of government] for which a county counselor is appointed, the prosecuting

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.

16 attorney shall only perform those duties prescribed by subsection 1 which are not performed by
17 the county counselor under the provisions of law relating to the office of county counselor.

56.631. 1. The county commission **or governing body** of any county [of the first class
2 not having a charter form of government or any second class county which contains part of a city
3 with a population of at least three hundred fifty thousand] may by order of the commission **or**
4 **governing body** appoint some suitable person to the position of county counselor. If a county
5 counselor is appointed, he shall be commissioned as other officers are commissioned. The
6 county counselor shall serve at the pleasure of the county commission **or governing body**.

7 2. The county counselor shall be a person licensed to practice law in this state, but the
8 county commission **or governing body** may determine and fix further qualifications for the
9 position.

10 3. The county commission **or governing body** shall fix the compensation of the county
11 counselor.

12 4. The county commission **or governing body** may require the county counselor to
13 devote his full time to the duties of his office.

56.640. 1. If a county counselor is appointed, he and his assistants under his direction
2 shall represent the county and all departments, officers, institutions and agencies thereof, except
3 as otherwise provided by law and shall upon request of any county department, officer,
4 institution or agency for which legal counsel is otherwise provided by law, and upon the approval
5 of the county commission **or governing body**, represent such department, officer, institution or
6 agency. He shall commence, prosecute or defend, as the case may require, and exercise
7 exclusive authority in all civil suits or actions in which the county or any county officer,
8 commission, **governing body** or agency is a party, in his or its official capacity, he shall draw
9 all contracts relating to the business of the county, he shall represent the county generally in all
10 matters of civil law, and he shall upon request furnish written opinions to any county officer or
11 department.

12 2. In all cases in which a civil fine may be imposed pursuant to section 49.272, RSMo,
13 it shall be the duty of the county counselor, rather than the county prosecuting attorney, to
14 prosecute such violations in the associate division of the circuit court in the county where the
15 violation occurred.

16 3. Notwithstanding any law to the contrary, the county counselor in any county of the
17 first classification and the prosecuting attorney of such county may by mutual cooperation
18 agreement prosecute or defend any civil action which the prosecuting attorney or county
19 counselor of the county is authorized or required by law to prosecute or defend.

56.650. If a county counselor is appointed, he shall in person, or by assistant, at the
2 election of the county commission **or governing body**, attend [each sitting] **such sittings** of the

3 county commission and give advice on all legal questions that may arise during the session of
4 the commission **or governing body as the county commission or governing body**, and he shall
5 assist the **county commission or governing body** in all such matters that may be referred to him.
6 The county counselor may, with the approval of the county commission **or governing body**,
7 employ such office personnel as are necessary in the discharge of his official duties and such
8 employees and assistants shall hold their positions at the pleasure of the county counselor and
9 shall be paid monthly by the county commission **or governing body** out of the county treasury.
10 The county counselor may, with the approval of the county commission **or governing body**,
11 appoint such assistants as are necessary in the conduct of his office, who shall receive as
12 compensation such salary as is fixed by the county counselor and approved by the county
13 commission **or governing body**.

56.660. [In all counties of the first class not having a charter form of government and
2 containing all or part of a city with a population of over four hundred thousand inhabitants,] The
3 county counselor may, with the approval of the **county commission or the** governing body of
4 such county, employ special county counselors to represent such county in prosecuting or
5 defending any suit by or against such county, or any official of such county acting in his official
6 capacity. The county counselor may pay such special county counselors a reasonable
7 compensation, which shall be fixed by the **county commission or the** governing body of such
8 county and paid out of such funds as the **county commission or the** governing body may direct,
9 for their services. Special county counselors employed under this section shall have the same
10 qualifications required for county counselors under the provisions of section 56.631.

67.1922. 1. The governing body of any county containing any part of a Corps of
2 Engineers lake with a shoreline of at least seven hundred miles and not exceeding a shoreline of
3 nine hundred miles or the governing body of any county which borders on or which contains part
4 of a lake with not less than one hundred miles of shoreline may impose by order [a] **one or more**
5 sales [tax] **taxes**, not to exceed one and one-half percent **in the aggregate**, on all retail sales
6 made in such county which are subject to taxation pursuant to the provisions of sections 144.010
7 to 144.525, RSMo, for the purpose of [promoting] **affecting any combination of** water quality,
8 infrastructure [and] **or** tourism [through programs designed to affect the economic development
9 of] **in** the county. The [tax] **taxes** authorized by this section shall be in addition to any and all
10 other sales taxes allowed by law; except that no order imposing a sales tax pursuant to the
11 provisions of this section shall be effective unless the governing body of the county submits to
12 the voters of the county, at a municipal or state primary, general or special election, a proposal
13 to authorize the governing body of the county to impose [a] **such** tax.

14 2. [The] **Each** ballot of submission shall contain, but need not be limited to, the
15 following language:

16 Shall the county of (county's name) impose a countywide sales tax of
 17 (insert percent) for the purpose of [creating and implementing water quality,
 18 infrastructure and tourism programs affecting economic development in the county] **affecting**
 19 **.....? (water quality, infrastructure and tourism) (water quality and infrastructure) (water**
 20 **quality and tourism) (infrastructure and tourism) (water quality) (infrastructure)**
 21 **(tourism) (insert one)** as provided by law?

22 Yes No

23

24 If you are in favor of the question, place an "X" in the box opposite "Yes". If you are opposed
 25 to the question, place an "X" in the box opposite "No".

26

27 If a majority of the votes cast on the proposal by the qualified voters of the county voting thereon
 28 are in favor of the proposal, then the order shall become effective on the first day of the second
 29 calendar quarter after the director of revenue receives notice of adoption of the tax. If the
 30 proposal receives less than the required majority, then the governing body of the county shall
 31 have no power to impose the sales tax authorized pursuant to this section unless and until the
 32 governing body shall again have submitted another proposal to authorize the governing body to
 33 impose the sales tax authorized by this section and such proposal is approved by the required
 34 majority of the qualified voters of the county voting on such proposal.

67.1934. The governing body of the county, when presented with a petition, signed by
 2 at least twenty percent of the registered voters in the county that voted in the last gubernatorial
 3 election, calling for an election to repeal the tax shall submit the question to the voters using the
 4 same procedure by which the imposition of the tax was voted. The ballot of submission shall
 5 be in substantially the following form:

6 Shall County, Missouri, repeal the percent economic development sales
 7 tax for [promoting water quality, infrastructure and tourism] **affecting? (water quality,**
 8 **infrastructure and tourism programs) (water quality and infrastructure programs) (water**
 9 **quality and tourism programs) (infrastructure and tourism programs) (water quality**
 10 **programs) (infrastructure programs) (tourism programs) (insert one)** now in effect in the
 11 county?

12 Yes No

13

14 If you are in favor of the question, place an "X" in the box opposite "Yes". If you are opposed
 15 to the question, place an "X" in the box opposite "No".

16

17 If a majority of the votes cast on the proposal by the qualified voters of the county voting thereon

18 are in favor of repeal, that repeal shall become effective December thirty-first of the calendar
19 year in which such repeal was approved or after the repayment of the county's indebtedness
20 incurred pursuant to sections 67.1922 to 67.1940, whichever occurs later.