

FIRST REGULAR SESSION

# HOUSE BILL NO. 148

95TH GENERAL ASSEMBLY

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INTRODUCED BY REPRESENTATIVE FRANZ.

0386L.011

D. ADAM CRUMBLISS, Chief Clerk

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## AN ACT

To repeal sections 52.361, 52.370, 55.140, 55.190, 139.031, 139.140, 139.150, 139.210, 139.220, 140.050, 140.070, 140.080, 140.160, and 165.071, RSMo, and to enact in lieu thereof fourteen new sections relating to collection of taxes.

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

Section A. Sections 52.361, 52.370, 55.140, 55.190, 139.031, 139.140, 139.150, 2 139.210, 139.220, 140.050, 140.070, 140.080, 140.160, and 165.071, RSMo, are repealed and 3 fourteen new sections enacted in lieu thereof, to be known as sections 52.361, 52.370, 55.140, 4 55.190, 139.031, 139.140, 139.150, 139.210, 139.220, 140.050, 140.070, 140.080, 140.160, and 5 165.071, to read as follows:

52.361. It shall be the duty of the county collector in all counties of the first class not 2 having a charter form of government and in class two counties to prepare and keep in [his] **the** 3 **collector's** office, **electronically or otherwise**, back tax books which shall contain and list all 4 delinquent taxes on real and personal property levied and assessed in the county which remain 5 due and unpaid after the first day of January of each year. Such back tax books shall replace and 6 be in lieu of all "delinquent lists" and other back tax books heretofore prepared by the collector 7 or other county officer.

52.370. All money disbursed by the county collector in counties of the first class not 2 having a charter form of government and in counties of the second class by virtue of [his] **the** 3 **collector's** office shall be paid by **electronic transfer of funds from the collector's account** 4 **into the accounts of the appropriate taxing authorities or by** check signed by the collector 5 and countersigned by the auditor of the county. **All disbursements shall be documented by** 6 **the collector and certified by the auditor.**

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.

55.140. The county auditor of each county of the first class not having a charter form of government and of each county of the second class shall [countersign] **have access to all records, collections, and settlements for** all licenses issued by the county and shall [keep a record of the number, date of issue,] **receive a monthly listing from each office issuing the licenses stating** the name of the party or parties to whom issued[, the occupation, the expiration thereof,] and amount of money paid [therefor, and to whom paid].

55.190. The county collector of revenue of each county of the first class not having a charter form of government and of each county of the second class shall [make] **provide, electronically or otherwise,** a daily report to the auditor of receipts [and balance in his hands, and where deposited], and shall deliver to the auditor each day a deposit slip showing the day's deposit. The collector shall, upon receiving taxes, give [duplicate] a numbered tax [receipts, which] **receipt to** the taxpayer [shall take to the auditor to be countersigned by him, one of which the auditor shall retain, and charge the amount thereof to the collector]. The collector shall also [make] **provide, electronically or otherwise,** a daily report to the auditor of all other sums of money collected by [him] **the collector** from any source whatsoever, and in such report shall state [from whom collected, and] on what account[, which sums shall be charged by the auditor to the collector] **collected**. The collector shall[, upon turning] **turn** money over to the county treasurer[, take duplicate receipts therefor and file same immediately with the county auditor] **under section 139.210, RSMo.**

139.031. 1. Any taxpayer may protest all or any part of any current taxes assessed against the taxpayer, except taxes collected by the director of revenue of Missouri. Any such taxpayer desiring to pay any current taxes under protest shall, at the time of paying such taxes, **make full payment of the current tax bill and** file with the collector a written statement setting forth the grounds on which the protest is based. The statement shall include the true value in money claimed by the taxpayer if disputed.

2. For all tax years beginning on or after January 1, 2009, any taxpayer desiring to protest any current taxes shall make full payment of the current tax bill and file with the collector a written statement setting forth the grounds on which the protest is based.

3. Upon receiving payment of current taxes under protest pursuant to subsection 1 of this section or upon receiving from the state tax commission or the circuit court notice of an appeal from the state tax commission or the circuit court pursuant to section 138.430, RSMo, the collector shall disburse to the proper official all portions of taxes not protested or not disputed by the taxpayer and shall impound in a separate fund all portions of such taxes which are protested or in dispute. Every taxpayer protesting the payment of current taxes under subsection 1 or 2 of this section shall, within ninety days after filing his protest, commence an action against the collector by filing a petition for the recovery of the amount protested in the circuit court of

18 the county in which the collector maintains his office. If any taxpayer so protesting his taxes  
19 under subsection 1 or 2 of this section shall fail to commence an action in the circuit court for  
20 the recovery of the taxes protested within the time prescribed in this subsection, such protest  
21 shall become null and void and of no effect, and the collector shall then disburse to the proper  
22 official the taxes impounded, and any interest earned thereon, as provided above in this  
23 subsection.

24 4. No action against the collector shall be commenced by any taxpayer who has, effective  
25 for the current tax year, filed with the state tax commission or the circuit court a timely and  
26 proper appeal of the assessment of the taxpayer's property. The portion of taxes in dispute from  
27 an appeal of an assessment shall be impounded in a separate fund and the commission in its  
28 decision and order issued pursuant to chapter 138, RSMo, or the circuit court in its judgment  
29 may order all or any part of such taxes refunded to the taxpayer, or may authorize the collector  
30 to release and disburse all or any part of such taxes.

31 5. Trial of the action for recovery of taxes protested under subsection 1 or 2 of this  
32 section in the circuit court shall be in the manner prescribed for nonjury civil proceedings, and,  
33 after determination of the issues, the court shall make such orders as may be just and equitable  
34 to refund to the taxpayer all or any part of the current taxes paid under protest, together with any  
35 interest earned thereon, or to authorize the collector to release and disburse all or any part of the  
36 impounded taxes, and any interest earned thereon, to the appropriate officials of the taxing  
37 authorities. Either party to the proceedings may appeal the determination of the circuit court.

38 6. All the county collectors of taxes, and the collector of taxes in any city not within a  
39 county, shall, upon written application of a taxpayer, refund or credit against the taxpayer's tax  
40 liability in the following taxable year and subsequent consecutive taxable years until the taxpayer  
41 has received credit in full for any real or personal property tax mistakenly or erroneously levied  
42 against the taxpayer and collected in whole or in part by the collector. Such application shall be  
43 filed within three years after the tax is mistakenly or erroneously paid. The governing body, or  
44 other appropriate body or official of the county or city not within a county, shall make available  
45 to the collector funds necessary to make refunds under this subsection by issuing warrants upon  
46 the fund to which the mistaken or erroneous payment has been credited, or otherwise.

47 7. No taxpayer shall receive any interest on any money paid in by the taxpayer  
48 erroneously.

49 8. All protested taxes impounded under protest under subsection 1 or 2 of this section  
50 and all disputed taxes impounded under notice as required by section 138.430, RSMo, shall be  
51 invested by the collector in the same manner as assets specified in section 30.260, RSMo, for  
52 investment of state moneys. A taxpayer who is entitled to a refund of protested or disputed taxes  
53 shall also receive the interest earned on the investment thereof. If the collector is ordered to

54 release and disburse all or part of the taxes paid under protest or dispute to the proper official,  
55 such taxes shall be disbursed along with the proportional amount of interest earned on the  
56 investment of the taxes due the particular taxing authority.

57       9. **Any taxing authority may request to be notified by the county collector of**  
58 **current taxes paid under protest. Such request shall be in writing and submitted** on or  
59 before [March] **February** first next following the delinquent date of **current** taxes paid under  
60 protest or disputed, **and** the county collector shall [notify any] **provide such information on or**  
61 **before March first of the same year to the requesting** taxing authority of the taxes paid under  
62 protest and disputed taxes which would be received by such taxing authority if the funds were  
63 not the subject of a protest or dispute. Any taxing authority may apply to the circuit court of the  
64 county or city not within a county in which a collector has impounded protested or disputed taxes  
65 under this section and, upon a satisfactory showing that such taxing authority would receive such  
66 impounded tax funds if they were not the subject of a protest or dispute and that such taxing  
67 authority has the financial ability and legal capacity to repay such impounded tax funds in the  
68 event a decision ordering a refund to the taxpayer is subsequently made, the circuit court shall  
69 order, pendente lite, the disbursement of all or any part of such impounded tax funds to such taxing  
70 authority. The circuit court issuing an order under this subsection shall retain jurisdiction of such  
71 matter for further proceedings, if any, to compel restitution of such tax funds to the taxpayer.  
72 In the event that any protested or disputed tax funds refunded to a taxpayer were disbursed to a  
73 taxing authority under this subsection instead of being held and invested by the collector under  
74 subsection 8 of this section, such taxing authority shall pay the taxpayer entitled to the refund  
75 of such protested or disputed taxes the same amount of interest, as determined by the circuit  
76 court having jurisdiction in the matter, such protested or disputed taxes would have earned if  
77 they had been held and invested by the collector.

78       10. No appeal filed from the circuit court's or state tax commission's determination  
79 pertaining to the amount of refund shall stay any order of refund, but the decision filed by any  
80 court of last review modifying that determination shall be binding on the parties, and the decision  
81 rendered shall be complied with by the party affected by any modification within ninety days of  
82 the date of such decision. No taxpayer shall receive any interest on any additional award of  
83 refund, and the collector shall not receive any interest on any ordered return of refund in whole  
84 or in part.

139.140. **Except as provided in section 52.361, RSMo,** the personal delinquent lists  
2 allowed to any collector shall be delivered to the collector and when [his] **the collector's** term  
3 of office expires then to [his] **the** successor, who shall be charged with the full amount thereof,  
4 and shall account therefor as for other moneys collected by [him] **the collector**. When [he] **the**  
5 **collector** makes [his] **the** next annual settlement [he] **the collector** shall return the lists to the

6 clerk of the county commission, and in the city of St. Louis the lists and the uncollected tax bills  
7 to the comptroller of the city, and shall be entitled to credit for the amount [he] **the collector** has  
8 been unable to collect. The lists and bills shall be delivered to [his] **the collector's** successor,  
9 and so on until the whole are collected.

139.150. And in making collections on the said personal delinquent lists, the said  
2 collectors, **except collectors in counties of the first or second classifications**, shall give  
3 duplicate receipts therefor, one to be delivered to the person paying the same, and the other to  
4 be filed with the clerk of the county commission, who shall charge the collector therewith.

139.210. 1. Every county collector and [ex officio county collector] **collector-treasurer**,  
2 **other than the county collector of revenue of each county of the first or second**  
3 **classifications and** except in the city of St. Louis, shall, on or before the fifth day of each month,  
4 file with the county clerk a detailed statement, verified by affidavit of all state, county, school,  
5 road and municipal taxes, and of all licenses by [him] **the collector** collected during the  
6 preceding month, and shall, except for tax payments made pursuant to section 139.053, on or  
7 before the fifteenth day of the month, pay the same, less [his] **the collector's** commissions, into  
8 the county treasuries and to the director of revenue.

9 2. **The county collector of revenue of each county of the first or second**  
10 **classifications shall, before the fifteenth day of each month, file with the county clerk and**  
11 **auditor a detailed statement, verified by affidavit, of all state, county, school, road, and**  
12 **municipal taxes and of all licenses collected by the collector during the preceding month,**  
13 **and shall, except for tax payments made under section 139.053, on or before the fifteenth**  
14 **day of the month, pay such taxes and licenses, less commissions, into the treasuries of the**  
15 **appropriate taxing entities and to the director of revenue.**

16 3. It shall be the duty of the county clerk, and [he] **the clerk** is hereby required, to  
17 forward immediately a certified copy of such detailed statement to the director of revenue, who  
18 shall keep an account of the state taxes with the collector.

139.220. Every collector of the revenue having made settlement, according to law, of  
2 county revenue [by him] collected or received **by the collector**, shall pay the amount found due  
3 into the county treasury, and the treasurer shall give [him] **the collector** duplicate receipts  
4 therefor, one of which shall be filed in the office of the clerk of the county commission, who  
5 shall grant [him] **the collector** full quietus under the seal of the commission.

140.050. 1. **Except as provided in section 52.361, RSMo**, the county clerk shall file  
2 the delinquent lists in [his] **the county clerk's** office and within ten days thereafter make, under  
3 the seal of the commission, the lists into a back tax book as provided in section 140.060.

4 2. **Except as provided in section 52.361, RSMo**, when completed, the clerk shall  
5 deliver the book to the collector taking duplicate receipts therefor, one of which [he] **the clerk**

6 shall file in [his] **the clerk's** office and the other [he] **the clerk** shall file with the director of  
7 revenue. The clerk shall charge the collector with the aggregate amount of taxes, interest, and  
8 clerk's fees contained in the back tax book.

9 3. The collector shall collect such back taxes and may levy upon, seize and distrain  
10 tangible personal property and may sell such property for taxes.

11 4. In the city of St. Louis, the city comptroller or other proper officer shall return the  
12 back tax book together with the uncollected tax bills within thirty days to the city collector.

13 5. If any county commission or clerk **in counties not having a county auditor** fails to  
14 comply with section 140.040, and this section, to the extent that the collection of taxes cannot  
15 be enforced by law, the county commission or clerk, or their successors in office, shall correct  
16 such omissions at once and return the back tax book to the collector who shall collect such taxes.

140.070. All back taxes, of whatever kind, whether state, county or school, or of any city  
2 or incorporated town, which return delinquent tax lists to the county collector to collect,  
3 appearing due upon delinquent real estates shall be extended in the back tax book made under  
4 this chapter **or chapter 52, RSMo**. In case the collector of any city or town has omitted or  
5 neglected to return to the county collector a list of delinquent lands and lots, as required by  
6 section 140.670, the present authorities of the city or town may cause the delinquent list to be  
7 certified, as by that section contemplated, and the delinquent taxes shall be by the county clerk  
8 put upon the back tax book and collected by the collector under authority of this chapter.

140.080. **Except as provided in section 52.361, RSMo**, the county clerk and the county  
2 collector shall compare the back tax book with the corrected delinquent land list made pursuant  
3 to sections 140.030 and 140.040 respectively, and the clerk shall certify on the delinquent land  
4 list on file in [his] **the clerk's** office that the list has been properly entered in the back tax book  
5 and shall attach a certificate at the end of the back tax book that it contains a true copy of the  
6 delinquent land list on file in [his] **the collector's** office.

140.160. 1. No proceedings for the sale of land and lots for delinquent taxes pursuant  
2 to this chapter or unpaid special assessments as provided in section 67.469, RSMo, relating to  
3 the collection of delinquent and back taxes and unpaid special assessments and providing for  
4 foreclosure sale and redemption of land and lots therefor, shall be valid unless initial proceedings  
5 therefor shall be commenced within three years after delinquency of such taxes and unpaid  
6 special assessments, and any sale held pursuant to initial proceedings commenced within such  
7 period of three years shall be deemed to have been in compliance with the provisions of said law  
8 insofar as the time at which such sales are to be had is specified therein; provided further, that  
9 in suits or actions to collect delinquent drainage and/or levee assessments on real estate such  
10 suits or actions shall be commenced within three years after delinquency, otherwise no suit or  
11 action therefor shall be commenced, had or maintained, except that the three-year limitation

12 described in this subsection shall not be applicable if any written instrument conveys any real  
13 estate having a tax-exempt status, if such instrument causes such real estate to again become  
14 taxable real property and if such instrument has not been recorded in the office of the recorder  
15 in the county in which the real estate has been situated. Such three-year limitation shall only be  
16 applicable once the recording of the title has occurred.

17 2. [In order to enable county and city collectors to be able to collect delinquent and back  
18 taxes and unpaid special assessments,] The county auditor in all counties having a county auditor  
19 shall annually audit [and list all delinquent and back taxes and unpaid special assessments]  
20 **collections, deposits, and supporting reports of the collector** and provide a copy of such audit  
21 [and list] to the county collector and to the governing body of the county. A copy of the audit  
22 [and list] may be provided to [city collectors] **all applicable taxing entities** within the county  
23 at the discretion of the county collector.

165.071. 1. At least once in every month the county collector in all counties of the first  
2 and second classifications and the collector-treasurer in counties having township organization  
3 shall pay over to the treasurer of the school board of all seven-director districts all moneys  
4 received and collected by the **county collector and the** collector-treasurer to which the board  
5 is entitled and take duplicate receipts from the treasurer, one of which the **county collector and**  
6 **the** collector-treasurer shall file with the secretary of the school board and the other the **county**  
7 **collector and the** collector-treasurer shall file in his or her settlement with the county  
8 commission.

9 2. The county collector in counties of the third and fourth classification, except in  
10 counties under township organization, shall pay over to the county treasurer at least once in every  
11 month all moneys received and collected by the county collector which are due each school  
12 district and shall take duplicate receipts therefor, one of which the county collector shall file in  
13 his or her settlement with the county commission. The county treasurer in such counties shall  
14 pay over to the treasurer of the school board of seven-director districts, at least once in every  
15 month, all moneys so received by the county treasurer to which the board is entitled. Upon  
16 payment the county treasurer shall take duplicate receipts from the treasurer of the school board,  
17 one of which the county treasurer shall file with the secretary of the school board, and the other  
18 [he] **the county treasurer** shall file in his or her settlement with the county commission.

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