

FIRST REGULAR SESSION
HOUSE COMMITTEE SUBSTITUTE FOR
SENATE BILL NO. 57
97TH GENERAL ASSEMBLY

0119H.06C

D. ADAM CRUMBLISS, Chief Clerk

AN ACT

To repeal sections 8.683, 8.685, 71.285, 144.032, and 205.205, RSMo, and to enact in lieu thereof nine new sections relating to certain civil actions.

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

Section A. Sections 8.683, 8.685, 71.285, 144.032, and 205.205, RSMo, are repealed and
2 nine new sections enacted in lieu thereof, to be known as sections 8.683, 8.685, 71.285, 77.675,
3 96.155, 144.032, 205.205, 206.165, and 640.236, to read as follows:

8.683. Upon award of a construction management services contract, the successful
2 construction manager shall contract with the public owner to furnish his skill and judgment in
3 cooperation with, and reliance upon, the services of the project architect or engineer. The
4 construction manager shall furnish business administration, management of the construction
5 process and other specified services to the public owner and shall perform in an expeditious and
6 economical manner consistent with the interest of the public owner. Should the public owner
7 determine it to be in the public's best interest, the construction manager may provide or perform
8 basic services for which reimbursement is provided in the general conditions to the construction
9 management services contract. The construction manager shall [not, however,] **also** be permitted
10 to bid on or perform any of the actual construction on a public works project in which he is
11 acting as construction manager, [nor shall] **and** any construction firm which controls, is
12 controlled by, or shares common ownership or control with, the construction manager **shall** be
13 allowed to bid on or perform work on such project. The actual construction work on the project
14 shall be awarded by competitive bidding as provided by law. All successful bidders **who**
15 **contract directly with the public owner**, shall contract directly with the public owner **or**
16 **construction manager**, but shall perform at the direction of the construction manager unless
17 otherwise provided in the construction manager's contract with the public owner. All successful

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.

18 bidders shall provide payment and performance bonds to the public owner. All successful
19 bidders shall meet all the obligations of a prime contractor to whom a contract is awarded,
20 pertaining to the payment of prevailing wages pursuant to sections 290.210 to 290.340. In
21 addition, all nonresident employers shall meet the bonding and registration requirements of
22 sections 285.230 to 285.234.

8.685. [No] **Any** construction management services contract may be awarded by a public
2 owner on a negotiated basis as provided herein [if] **regardless of whether** the construction
3 manager, or a firm that controls, is controlled by, or shares common ownership or control with
4 the construction manager, guarantees, warrants, or otherwise assumes financial responsibility for
5 the work of others on the project; or provides the public owner with a guaranteed maximum price
6 for the work of others on the project; or furnishes or guarantees a performance or payment bond
7 for other contractors on the project. [In any such case, the contract for construction management
8 services shall be let by competitive bidding as in the case of contracts for construction work.]

71.285. 1. Whenever weeds or trash, in violation of an ordinance, are allowed to grow
2 or accumulate, as the case may be, on any part of any lot or ground within any city, town or
3 village in this state, the owner of the ground, or in case of joint tenancy, tenancy by entireties or
4 tenancy in common, each owner thereof, shall be liable. The marshal or other city official as
5 designated in such ordinance shall give a hearing after ten days' notice thereof, either personally
6 or by United States mail to the owner or owners, or the owner's agents, or by posting such notice
7 on the premises; thereupon, the marshal or other designated city official may declare the weeds
8 or trash to be a nuisance and order the same to be abated within five days; and in case the weeds
9 or trash are not removed within the five days, the marshal or other designated city official shall
10 have the weeds or trash removed, and shall certify the costs of same to the city clerk, who shall
11 cause a special tax bill therefor against the property to be prepared and to be collected by the
12 collector, with other taxes assessed against the property; and the tax bill from the date of its
13 issuance shall be a first lien on the property until paid and shall be prima facie evidence of the
14 recitals therein and of its validity, and no mere clerical error or informality in the same, or in the
15 proceedings leading up to the issuance, shall be a defense thereto. Each special tax bill shall be
16 issued by the city clerk and delivered to the collector on or before the first day of June of each
17 year. Such tax bills if not paid when due shall bear interest at the rate of eight percent per
18 annum. Notwithstanding the time limitations of this section, any city, town or village located
19 in a county of the first classification may hold the hearing provided in this section four days after
20 notice is sent or posted, and may order at the hearing that the weeds or trash shall be abated
21 within five business days after the hearing and if such weeds or trash are not removed within five
22 business days after the hearing, the order shall allow the city to immediately remove the weeds
23 or trash pursuant to this section. Except for lands owned by a public utility, rights-of-way, and

24 easements appurtenant or incidental to lands controlled by any railroad, the department of
25 transportation, the department of natural resources or the department of conservation, the
26 provisions of this subsection shall not apply to any city with a population of at least seventy
27 thousand inhabitants which is located in a county of the first classification with a population of
28 less than one hundred thousand inhabitants which adjoins a county with a population of less than
29 one hundred thousand inhabitants that contains part of a city with a population of three hundred
30 fifty thousand or more inhabitants, any city with a population of one hundred thousand or more
31 inhabitants which is located within a county of the first classification that adjoins no other county
32 of the first classification, or any city, town or village located within a county of the first
33 classification with a charter form of government with a population of nine hundred thousand or
34 more inhabitants, or any city with a population of three hundred fifty thousand or more
35 inhabitants which is located in more than one county, or the City of St. Louis, where such city,
36 town or village establishes its own procedures for abatement of weeds or trash, and such city may
37 charge its costs of collecting the tax bill, including attorney fees, in the event a lawsuit is
38 required to enforce a tax bill.

39 2. Except as provided in subsection 3 of this section, if weeds are allowed to grow, or
40 if trash is allowed to accumulate, on the same property in violation of an ordinance more than
41 once during the same growing season in the case of weeds, or more than once during a calendar
42 year in the case of trash, in any city with a population of three hundred fifty thousand or more
43 inhabitants which is located in more than one county, in the City of St. Louis, in any city, town
44 or village located in a county of the first classification with a charter form of government with
45 a population of nine hundred thousand or more inhabitants, in any fourth class city located in a
46 county of the first classification with a charter form of government and a population of less than
47 three hundred thousand, or in any home rule city with more than one hundred thirteen thousand
48 two hundred but less than one hundred thirteen thousand three hundred inhabitants located in a
49 county with a charter form of government and with more than six hundred thousand but less than
50 seven hundred thousand inhabitants, the marshal or other designated city official may order that
51 the weeds or trash be abated within five business days after notice is sent to or posted on the
52 property. In case the weeds or trash are not removed within the five days, the marshal or other
53 designated city official may have the weeds or trash removed and the cost of the same shall be
54 billed in the manner described in subsection 1 of this section.

55 3. If weeds are allowed to grow, or if trash is allowed to accumulate, on the same
56 property in violation of an ordinance more than once during the same growing season in the case
57 of weeds, or more than once during a calendar year in the case of trash, in any city with a
58 population of three hundred fifty thousand or more inhabitants which is located in more than one
59 county, in the City of St. Louis, in any city, town or village located in a county of the first

60 classification with a charter form of government with a population of nine hundred thousand or
61 more inhabitants, in any fourth class city located in a county of the first classification with a
62 charter form of government and a population of less than three hundred thousand, in any home
63 rule city with more than one hundred thirteen thousand two hundred but less than one hundred
64 thirteen thousand three hundred inhabitants located in a county with a charter form of
65 government and with more than six hundred thousand but less than seven hundred thousand
66 inhabitants, in any third class city with a population of at least ten thousand inhabitants but less
67 than fifteen thousand inhabitants with the greater part of the population located in a county of
68 the first classification, in any city of the third classification with more than sixteen thousand nine
69 hundred but less than seventeen thousand inhabitants, [or] in any city of the third classification
70 with more than eight thousand but fewer than nine thousand inhabitants, **in any city of the third**
71 **classification with more than fifteen thousand but fewer than seventeen thousand**
72 **inhabitants and located in any county of the first classification with more than sixty-five**
73 **thousand but fewer than seventy-five thousand inhabitants, or in any city of the fourth**
74 **classification with more than eight thousand but fewer than nine thousand inhabitants and**
75 **located in any county of the third classification without a township form of government**
76 **and with more than eighteen thousand but fewer than twenty thousand inhabitants, the**
77 marshal or other designated official may, without further notification, have the weeds or trash
78 removed and the cost of the same shall be billed in the manner described in subsection 1 of this
79 section. The provisions of subsection 2 and this subsection do not apply to lands owned by a
80 public utility and lands, rights-of-way, and easements appurtenant or incidental to lands
81 controlled by any railroad.

82 4. The provisions of this section shall not apply to any city with a population of one
83 hundred thousand or more inhabitants which is located within a county of the first classification
84 that adjoins no other county of the first classification where such city establishes its own
85 procedures for abatement of weeds or trash, and such city may charge its costs of collecting the
86 tax bill, including attorney fees, in the event a lawsuit is required to enforce a tax bill.

77.675. 1. In addition to the process for passing ordinances provided in section
2 **77.080, the council of any city of the third classification with more than fifteen thousand**
3 **but fewer than seventeen thousand inhabitants and located in any county of the first**
4 **classification with more than sixty-five thousand but fewer than seventy-five thousand**
5 **inhabitants may adopt or repeal any ordinance by passage of a bill that sets forth the**
6 **ordinance and specifies that the ordinance so proposed shall be submitted to the registered**
7 **voters of the city at the next municipal election. The bill shall be passed under the**
8 **procedures in section 77.080, except that it shall take effect upon approval of a majority**
9 **of the voters rather than upon the approval and signature of the mayor.**

31 erroneous payments and overpayments made, and may redeem dishonored checks and
32 drafts deposited to the credit of such board of trustees. Any funds in the special fund
33 which are not needed for current expenditures shall be invested in the same manner as
34 other funds are invested. Any interest and moneys earned on such investments shall be
35 credited to the fund.

36 4. The board of trustees of a hospital operated under sections 96.150 to 96.228 that
37 has adopted the sales tax authorized in this section may submit the question of repeal of
38 the tax to the voters on any date available for elections for the city of the third class. If a
39 majority of the votes cast on the question by the qualified voters voting thereon are in favor
40 of the repeal, that repeal shall become effective on December thirty-first of the calendar
41 year in which such repeal was approved. If a majority of the votes cast on the question by
42 the qualified voters voting thereon are opposed to the repeal, then the sales tax authorized
43 in this section shall remain effective until the question is resubmitted under this section to
44 the qualified voters and the repeal is approved by a majority of the qualified voters voting
45 on the question.

46 5. Whenever the board of trustees of a hospital operated under sections 96.150 to
47 96.228 that has adopted the sales tax authorized in this section receives a petition, signed
48 by a number of registered voters of the city of the third class equal to at least ten percent
49 of the number of registered voters of the city voting in the last gubernatorial election,
50 calling for an election to repeal the sales tax imposed under this section, the board of
51 trustees shall submit to the voters of the city of the third class a proposal to repeal the tax.
52 If a majority of the votes cast on the question by the qualified voters voting thereon are in
53 favor of the repeal, the repeal shall become effective on December thirty-first of the
54 calendar year in which such repeal was approved. If a majority of the votes cast on the
55 question by the qualified voters voting thereon are opposed to the repeal, then the sales tax
56 authorized in this section shall remain effective until the question is resubmitted under this
57 section to the qualified voters and the repeal is approved by a majority of the qualified
58 voters voting on the question.

59 6. If the tax is repealed or terminated by any means, all funds remaining in the
60 special trust fund shall continue to be used solely for the designated purposes, and the
61 board of trustees shall notify the director of the department of revenue of the action at least
62 ninety days before the effective date of the repeal and the director may order retention in
63 the trust fund, for a period of one year, of two percent of the amount collected after receipt
64 of such notice to cover possible refunds or overpayment of the tax and to redeem
65 dishonored checks and drafts deposited to the credit of such accounts. After one year has
66 elapsed after the effective date of abolition of the tax in such city of the third class, the

67 **director shall remit the balance in the account to the district and close the account of that**
68 **city hospital. The director shall notify each board of trustees of each instance of any**
69 **amount refunded or any check redeemed from receipts due the hospital operated under**
70 **sections 96.150 to 96.228.**

144.032. The provisions of section 144.030 to the contrary notwithstanding, any city
2 imposing a sales tax under the provisions of sections 94.500 to 94.570 **or sections 96.150 to**
3 **96.228**, or any county imposing a sales tax under the provisions of sections 66.600 to 66.635, or
4 any county imposing a sales tax under the provisions of sections 67.500 to 67.729 **or section**
5 **205.205, or any hospital district imposing a sales tax under the provisions of section**
6 **206.165**, or any hospital district imposing a sales tax under the provisions of section 205.205
7 may by ordinance impose a sales tax upon all sales of metered water services, electricity,
8 electrical current and natural, artificial or propane gas, wood, coal, or home heating oil for
9 domestic use only. Such tax shall be administered by the department of revenue and assessed
10 by the retailer in the same manner as any other city, county, or hospital district sales tax.
11 Domestic use shall be determined in the same manner as the determination of domestic use for
12 exemption of such sales from the state sales tax under the provisions of section 144.030.

205.205. 1. The governing body of any [hospital district] **county which has** established
2 **a county hospital** under sections 205.160 to 205.379 [in any county of the third classification
3 without a township form of government and with more than ten thousand six hundred but fewer
4 than ten thousand seven hundred inhabitants or any county of the third classification without a
5 township form of government and with more than eleven thousand seven hundred fifty but fewer
6 than eleven thousand eight hundred fifty inhabitants] may, by resolution, abolish the property tax
7 authorized [in such district] **by section 205.200 to fund a county hospital** under this chapter
8 and impose a sales tax on all retail sales made within the district which are subject to sales tax
9 under chapter 144 and all sales of metered water services, electricity, electrical current and
10 natural, artificial or propane gas, wood, coal, or home heating oil for domestic use only as
11 provided under section 144.032. The tax authorized in this section shall be not more than one
12 percent, and shall be imposed solely for the purpose of funding the **county hospital [district]**.
13 The tax authorized in this section shall be in addition to all other sales taxes imposed by law, and
14 shall be stated separately from all other charges and taxes.

15 2. No such resolution adopted under this section shall become effective unless the
16 governing body of the [hospital district] **county** submits to the voters residing within the
17 [district] **county** at a state general, primary, or special election a proposal to authorize the
18 governing body of the [district] **county** to impose a tax under this section. If a majority of the
19 votes cast on the question by the qualified voters voting thereon are in favor of the question, then
20 the tax shall become effective on the first day of the second calendar quarter after the director

21 of revenue receives notification of adoption of the local sales tax. If a majority of the votes cast
22 on the question by the qualified voters voting thereon are opposed to the question, then the tax
23 shall not become effective unless and until the question is resubmitted under this section to the
24 qualified voters and such question is approved by a majority of the qualified voters voting on the
25 question.

26 3. All revenue collected under this section by the director of the department of revenue
27 on behalf of the **county** hospital [district], except for one percent for the cost of collection which
28 shall be deposited in the state's general revenue fund, shall be deposited in a special trust fund,
29 which is hereby created and shall be known as the "**County** Hospital [District] Sales Tax Fund",
30 and shall be used solely for the designated purposes. Moneys in the fund shall not be deemed
31 to be state funds, and shall not be commingled with any funds of the state. The director may
32 make refunds from the amounts in the fund and credited to the district for erroneous payments
33 and overpayments made, and may redeem dishonored checks and drafts deposited to the credit
34 of such district. Any funds in the special fund which are not needed for current expenditures
35 shall be invested in the same manner as other funds are invested. Any interest and moneys
36 earned on such investments shall be credited to the fund.

37 4. The governing body of any [hospital district] **county** that has adopted the sales tax
38 authorized in this section may submit the question of repeal of the tax to the voters on any date
39 available for elections for the district. If a majority of the votes cast on the question by the
40 qualified voters voting thereon are in favor of the repeal, that repeal shall become effective on
41 December thirty-first of the calendar year in which such repeal was approved. If a majority of
42 the votes cast on the question by the qualified voters voting thereon are opposed to the repeal,
43 then the sales tax authorized in this section shall remain effective until the question is
44 resubmitted under this section to the qualified voters and the repeal is approved by a majority of
45 the qualified voters voting on the question.

46 5. Whenever the governing body of any [hospital district] **county** that has adopted the
47 sales tax authorized in this section receives a petition, signed by a number of registered voters
48 of the [district] **county** equal to at least ten percent of the number of registered voters of the
49 [district] **county** voting in the last gubernatorial election, calling for an election to repeal the
50 sales tax imposed under this section, the governing body shall submit to the voters of the
51 [district] **county** a proposal to repeal the tax. If a majority of the votes cast on the question by
52 the qualified voters voting thereon are in favor of the repeal, the repeal shall become effective
53 on December thirty-first of the calendar year in which such repeal was approved. If a majority
54 of the votes cast on the question by the qualified voters voting thereon are opposed to the repeal,
55 then the sales tax authorized in this section shall remain effective until the question is

56 resubmitted under this section to the qualified voters and the repeal is approved by a majority of
57 the qualified voters voting on the question.

58 6. If the tax is repealed or terminated by any means, all funds remaining in the special
59 trust fund shall continue to be used solely for the designated purposes, and the [hospital district]
60 **county** shall notify the director of the department of revenue of the action at least ninety days
61 before the effective date of the repeal and the director may order retention in the trust fund, for
62 a period of one year, of two percent of the amount collected after receipt of such notice to cover
63 possible refunds or overpayment of the tax and to redeem dishonored checks and drafts deposited
64 to the credit of such accounts. After one year has elapsed after the effective date of abolition of
65 the tax in such district, the director shall remit the balance in the account to the [district] **county**
66 and close the account of that [district] **county**. The director shall notify each [district] **county**
67 of each instance of any amount refunded or any check redeemed from receipts due the [district]
68 **county**.

69 7. **The levy of a sales tax by a county under this section or section 205.202 shall be**
70 **deemed to comply with the requirements of this section if it was approved prior to January**
71 **1, 2012, by the voters of the county.**

206.165. 1. The governing body of any hospital district established under sections
2 **206.010 to 206.160 may, by resolution, abolish the property tax authorized in such district**
3 **under this chapter and impose a sales tax on all retail sales made within the district which**
4 **are subject to sales tax under chapter 144 and all sales of metered water services,**
5 **electricity, electrical current and natural, artificial or propane gas, wood, coal, or home**
6 **heating oil for domestic use only as provided under section 144.032. The tax authorized**
7 **in this section shall not be more than one percent, and shall be imposed solely for the**
8 **purpose of funding the hospital district. The tax authorized in this section shall be in**
9 **addition to all other sales taxes imposed by law, and shall be stated separately from all**
10 **other charges and taxes.**

11 **2. No such resolution adopted under this section shall become effective unless the**
12 **governing body of the hospital district submits to the voters residing within the district at**
13 **a state general, primary, or special election a proposal to authorize the governing body of**
14 **the district to impose a tax under this section. If a majority of the votes cast on the**
15 **question by the qualified voters voting thereon are in favor of the question, then the tax**
16 **shall become effective on the first day of the second calendar quarter after the director of**
17 **revenue receives notification of adoption of the local sales tax. If a majority of the votes**
18 **cast on the question by the qualified voters voting thereon are opposed to the question, then**
19 **the tax shall not become effective unless and until the question is resubmitted under this**

20 section to the qualified voters and such question is approved by a majority of the qualified
21 voters voting on the question.

22 3. All revenue collected under this section by the director of the department of
23 revenue on behalf of the hospital district, except for one percent for the cost of collection
24 which shall be deposited in the state's general revenue fund, shall be deposited in a special
25 trust fund, which is hereby created and shall be known as the "Hospital District Sales Tax
26 Fund", and shall be used solely for the designated purposes. Moneys in the fund shall not
27 be deemed to be state funds, and shall not be commingled with any funds of the state. The
28 director may make refunds from the amounts in the fund and credited to the district for
29 erroneous payments and overpayments made, and may redeem dishonored checks and
30 drafts deposited to the credit of such district. Any funds in the special fund which are not
31 needed for current expenditures shall be invested in the same manner as other funds are
32 invested. Any interest and moneys earned on such investments shall be credited to the
33 fund.

34 4. The governing body of any hospital district that has adopted the sales tax
35 authorized in this section may submit the question of repeal of the tax to the voters on any
36 date available for elections for the district. If a majority of the votes cast on the question
37 by the qualified voters voting thereon are in favor of the repeal, that repeal shall become
38 effective on December thirty-first of the calendar year in which such repeal was approved.
39 If a majority of the votes cast on the question by the qualified voters voting thereon are
40 opposed to the repeal, then the sales tax authorized in this section shall remain effective
41 until the question is resubmitted under this section to the qualified voters and the repeal
42 is approved by a majority of the qualified voters voting on the question.

43 5. Whenever the governing body of any hospital district that has adopted the sales
44 tax authorized in this section receives a petition, signed by a number of registered voters
45 of the district equal to at least ten percent of the number of registered voters of the district
46 voting in the last gubernatorial election, calling for an election to repeal the sales tax
47 imposed under this section, the governing body shall submit to the voters of the district a
48 proposal to repeal the tax. If a majority of the votes cast on the question by the qualified
49 voters voting thereon are in favor of the repeal, the repeal shall become effective on
50 December thirty-first of the calendar year in which such repeal was approved. If a
51 majority of the votes cast on the question by the qualified voters voting thereon are
52 opposed to the repeal, then the sales tax authorized in this section shall remain effective
53 until the question is resubmitted under this section to the qualified voters and the repeal
54 is approved by a majority of the qualified voters voting on the question.

55 **6. If the tax is repealed or terminated by any means, all funds remaining in the**
56 **special trust fund shall continue to be used solely for the designated purposes, and the**
57 **hospital district shall notify the director of the department of revenue of the action at least**
58 **ninety days before the effective date of the repeal and the director may order retention in**
59 **the trust fund, for a period of one year, of two percent of the amount collected after receipt**
60 **of such notice to cover possible refunds or overpayment of the tax and to redeem**
61 **dishonored checks and drafts deposited to the credit of such accounts. After one year has**
62 **elapsed after the effective date of abolition of the tax in such district, the director shall**
63 **remit the balance in the account to the district and close the account of that district. The**
64 **director shall notify each district of each instance of any amount refunded or any check**
65 **redeemed from receipts due the district.**

66 **7. The levy of a sales tax by a hospital district under section 205.205 shall be**
67 **deemed to comply with the requirements of this section if it was approved prior to January**
68 **1, 2012, by the voters of the hospital district.**

640.236. In all civil actions involving claims that arise from the ownership,
2 **maintenance, management, or control of underground hard rock mining or hard rock**
3 **milling sites that ceased operations prior to January 1, 1975, or that arise from chat or**
4 **tailings generated at those sites, brought against persons or entities alleged to have owned,**
5 **maintained, managed, or controlled such sites, chat, or tailings at any time, such persons**
6 **and entities shall be exempt from punitive or exemplary damages with respect to all claims**
7 **that relate in any way to the ownership, maintenance, management, or control of such sites,**
8 **chat, or tailings, so long as such persons or entities or their employees, agents, owners,**
9 **parent, subsidiary, or any related companies have made or are making good faith efforts**
10 **to remediate such sites. Any evidence may be introduced to demonstrate good faith efforts**
11 **to remediate; however, substantial compliance with an order or permit issued by or**
12 **negotiated with either the state of Missouri or the United States concerning remediation**
13 **or closure shall be deemed to be good faith efforts to remediate. The exemption from**
14 **punitive damages provided for in this section shall not apply if the trier of fact finds that**
15 **the injury that is the subject of the civil action is attended by circumstances of fraud,**
16 **malice, or willful and wanton conduct. In the event that good faith efforts to remediate a**
17 **site have not been made or the injury is found to be attended by circumstances of fraud,**
18 **malice, or willful and wanton conduct, then the total of any awards of punitive or**
19 **exemplary damages shall not exceed five hundred thousand dollars in the aggregate as to**
20 **all defendants in a civil action within this section. The provision of section 537.675 shall**
21 **not apply to such action, and one-half of any such awards for punitive or exemplary**
22 **damages shall be paid into the Missouri lead abatement loan fund established under**

23 **section 701.337. Nothing in this section shall be construed as precluding any party from**
24 **pursuing compensatory damages, including claims for natural resource damages.**

✓