

SECOND REGULAR SESSION
HOUSE COMMITTEE SUBSTITUTE FOR
HOUSE BILL NO. 2116
97TH GENERAL ASSEMBLY

6350H.03C

D. ADAM CRUMBLISS, Chief Clerk

AN ACT

To repeal sections 94.902, 287.243, 321.015, 321.130, and 321.210, RSMo, and to enact in lieu thereof five new sections relating to public safety.

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

Section A. Sections 94.902, 287.243, 321.015, 321.130, and 321.210, RSMo, are
2 repealed and five new sections enacted in lieu thereof, to be known as sections 94.902, 287.243,
3 321.015, 321.130, and 321.210, to read as follows:

94.902. 1. The governing [body] **bodies of the following cities may impose a tax as
2 provided in this section:**

3 **(1) Any city of the third classification with more than twenty-six thousand three hundred**
4 **but less than twenty-six thousand seven hundred inhabitants[, or] ;**

5 **(2) Any city of the fourth classification with more than thirty thousand three hundred but**
6 **fewer than thirty thousand seven hundred inhabitants[, or] ;**

7 **(3) Any city of the fourth classification with more than twenty-four thousand eight**
8 **hundred but fewer than twenty-five thousand inhabitants[.];**

9 **(4) Any special charter city with more than twenty-nine thousand but fewer than**
10 **thirty-two thousand inhabitants; or**

11 **(5) Any city of the third classification with more than four thousand but fewer than**
12 **four thousand five hundred inhabitants and located in any county of the first classification**
13 **with more than two hundred thousand but fewer than two hundred sixty thousand**
14 **inhabitants.**

15 **2. The governing body of any city listed in subsection 1 of this section may impose,**
16 **by order or ordinance, a sales tax on all retail sales made in the city which are subject to taxation**
17 **under chapter 144. The tax authorized in this section may be imposed in an amount of up to one-**

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 half of one percent, and shall be imposed solely for the purpose of improving the public safety
 19 for such city, including but not limited to expenditures on equipment, city employee salaries and
 20 benefits, and facilities for police, fire and emergency medical providers. The tax authorized in
 21 this section shall be in addition to all other sales taxes imposed by law, and shall be stated
 22 separately from all other charges and taxes. The order or ordinance imposing a sales tax under
 23 this section shall not become effective unless the governing body of the city submits to the voters
 24 residing within the city, at a county or state general, primary, or special election, a proposal to
 25 authorize the governing body of the city to impose a tax under this section.

26 [2.] 3. The ballot of submission for the tax authorized in this section shall be in
 27 substantially the following form:

28 Shall the city of (city's name) impose a citywide sales tax at
 29 a rate of (insert rate of percent) percent for the purpose of improving the public safety of
 30 the city?

31 YES NO

32 If you are in favor of the question, place an "X" in the box opposite "YES". If you are opposed
 33 to the question, place an "X" in the box opposite "NO".

34

35 If a majority of the votes cast on the proposal by the qualified voters voting thereon are in favor
 36 of the proposal, then the ordinance or order and any amendments to the order or ordinance shall
 37 become effective on the first day of the second calendar quarter after the director of revenue
 38 receives notice of the adoption of the sales tax. If a majority of the votes cast on the proposal
 39 by the qualified voters voting thereon are opposed to the proposal, then the tax shall not become
 40 effective unless the proposal is resubmitted under this section to the qualified voters and such
 41 proposal is approved by a majority of the qualified voters voting on the proposal. However, in
 42 no event shall a proposal under this section be submitted to the voters sooner than twelve months
 43 from the date of the last proposal under this section.

44 [3.] 4. Any sales tax imposed under this section shall be administered, collected,
 45 enforced, and operated as required in section 32.087. All sales taxes collected by the director
 46 of the department of revenue under this section on behalf of any city, less one percent for cost
 47 of collection which shall be deposited in the state's general revenue fund after payment of
 48 premiums for surety bonds as provided in section 32.087, shall be deposited in a special trust
 49 fund, which is hereby created in the state treasury, to be known as the "City Public Safety Sales
 50 Tax Trust Fund". The moneys in the trust fund shall not be deemed to be state funds and shall
 51 not be commingled with any funds of the state. The provisions of section 33.080 to the contrary
 52 notwithstanding, money in this fund shall not be transferred and placed to the credit of the
 53 general revenue fund. The director shall keep accurate records of the amount of money in the

54 trust fund and which was collected in each city imposing a sales tax under this section, and the
 55 records shall be open to the inspection of officers of the city and the public. Not later than the
 56 tenth day of each month the director shall distribute all moneys deposited in the trust fund during
 57 the preceding month to the city which levied the tax. Such funds shall be deposited with the city
 58 treasurer of each such city, and all expenditures of funds arising from the trust fund shall be by
 59 an appropriation act to be enacted by the governing body of each such city. Expenditures may
 60 be made from the fund for any functions authorized in the ordinance or order adopted by the
 61 governing body submitting the tax to the voters. If the tax is repealed, all funds remaining in the
 62 special trust fund shall continue to be used solely for the designated purposes. Any funds in the
 63 special trust fund which are not needed for current expenditures shall be invested in the same
 64 manner as other funds are invested. Any interest and moneys earned on such investments shall
 65 be credited to the fund.

66 [4.] 5. The director of the department of revenue may authorize the state treasurer to
 67 make refunds from the amounts in the trust fund and credited to any city for erroneous payments
 68 and overpayments made, and may redeem dishonored checks and drafts deposited to the credit
 69 of such cities. If any city abolishes the tax, the city shall notify the director of the action at least
 70 ninety days before the effective date of the repeal, and the director may order retention in the
 71 trust fund, for a period of one year, of two percent of the amount collected after receipt of such
 72 notice to cover possible refunds or overpayment of the tax and to redeem dishonored checks and
 73 drafts deposited to the credit of such accounts. After one year has elapsed after the effective date
 74 of abolition of the tax in such city, the director shall remit the balance in the account to the city
 75 and close the account of that city. The director shall notify each city of each instance of any
 76 amount refunded or any check redeemed from receipts due the city.

77 [5.] 6. The governing body of any city that has adopted the sales tax authorized in this
 78 section may submit the question of repeal of the tax to the voters on any date available for
 79 elections for the city. The ballot of submission shall be in substantially the following form:

80 Shall (insert the name of the city) repeal the sales tax
 81 imposed at a rate of (insert rate of percent) percent for the purpose of improving the public
 82 safety of the city?

83 YES NO

84 If a majority of the votes cast on the proposal are in favor of repeal, that repeal shall become
 85 effective on December thirty-first of the calendar year in which such repeal was approved. If a
 86 majority of the votes cast on the question by the qualified voters voting thereon are opposed to
 87 the repeal, then the sales tax authorized in this section shall remain effective until the question
 88 is resubmitted under this section to the qualified voters, and the repeal is approved by a majority
 89 of the qualified voters voting on the question.

90 [6.] 7. Whenever the governing body of any city that has adopted the sales tax authorized
91 in this section receives a petition, signed by ten percent of the registered voters of the city voting
92 in the last gubernatorial election, calling for an election to repeal the sales tax imposed under this
93 section, the governing body shall submit to the voters of the city a proposal to repeal the tax. If
94 a majority of the votes cast on the question by the qualified voters voting thereon are in favor of
95 the repeal, that repeal shall become effective on December thirty-first of the calendar year in
96 which such repeal was approved. If a majority of the votes cast on the question by the qualified
97 voters voting thereon are opposed to the repeal, then the tax shall remain effective until the
98 question is resubmitted under this section to the qualified voters and the repeal is approved by
99 a majority of the qualified voters voting on the question.

100 [7.] 8. Except as modified in this section, all provisions of sections 32.085 and 32.087
101 shall apply to the tax imposed under this section.

287.243. 1. This section shall be known and may be cited as the "Line of Duty
2 Compensation Act".

3 2. As used in this section, unless otherwise provided, the following words shall mean:

4 (1) "Air ambulance pilot", a person certified as an air ambulance pilot in accordance with
5 sections 190.001 to 190.245 and corresponding regulations applicable to air ambulances adopted
6 by the department of health and senior services, division of regulation and licensure, 19 CSR
7 30-40.005, et seq.;

8 (2) "Air ambulance registered professional nurse", a person licensed as a registered
9 professional nurse in accordance with sections 335.011 to 335.096 and corresponding regulations
10 adopted by the state board of nursing, 20 CSR 2200-4, et seq., who provides registered
11 professional nursing services as a flight nurse in conjunction with an air ambulance program that
12 is certified in accordance with sections 190.001 to 190.245 and the corresponding regulations
13 applicable to such programs;

14 (3) "Emergency medical technician", a person licensed in emergency medical care in
15 accordance with standards prescribed by sections 190.001 to 190.245 and by rules adopted by
16 the department of health and senior services under sections 190.001 to 190.245;

17 (4) "Firefighter", any person, including a volunteer firefighter, employed by the state or
18 a local governmental entity as an employer defined under subsection 1 of section 287.030, or
19 otherwise serving as a member or officer of a fire department either for the purpose of the
20 prevention or control of fire or the underwater recovery of drowning victims;

21 (5) "Killed in the line of duty", when [a] **any** person defined in this section loses [one's]
22 **his or her** life [as a result of an injury received in the active performance of his or her duties
23 within the ordinary scope of his or her respective profession while the individual is on duty and
24 but for the individual's performance, death would have not occurred] **when:**

25 **(a) Death is caused by an accident or the willful act of violence of another;**

26 **(b) The law enforcement officer, emergency medical technician, air ambulance**
27 **pilot, air ambulance registered professional nurse, or firefighter is in the active**
28 **performance of his or her duties in his or her respective profession and there is a**
29 **relationship between the accident or commission of the act of violence and the performance**
30 **of the duty, even if the individual is off duty; the law enforcement officer, emergency**
31 **medical technician, air ambulance pilot, air ambulance registered professional nurse, or**
32 **firefighter is traveling to or from employment; or the law enforcement officer, emergency**
33 **medical technician, air ambulance pilot, air ambulance registered professional nurse, or**
34 **firefighter is taking any meal break or other break which takes place while that individual**
35 **is on duty;**

36 **(c) Death is the natural and probable consequence of the injury; and**

37 **(d) Death occurs within three hundred weeks from the date the injury was received.**

38 The term excludes death resulting from the willful misconduct or intoxication of the law
39 enforcement officer, emergency medical technician, air ambulance pilot, air ambulance
40 registered professional nurse, or firefighter. The division of workers' compensation shall have
41 the burden of proving such willful misconduct or intoxication;

42 (6) "Law enforcement officer", any person employed by the state or a local governmental
43 entity as a police officer, peace officer certified under chapter 590, or serving as an auxiliary
44 police officer or in some like position involving the enforcement of the law and protection of the
45 public interest at the risk of that person's life;

46 (7) "Local governmental entity", includes counties, municipalities, townships, board or
47 other political subdivision, cities under special charter, or under the commission form of
48 government, fire protection districts, ambulance districts, and municipal corporations;

49 (8) "State", the state of Missouri and its departments, divisions, boards, bureaus,
50 commissions, authorities, and colleges and universities;

51 (9) "Volunteer firefighter", a person having principal employment other than as a
52 firefighter, but who is carried on the rolls of a regularly constituted fire department either for the
53 purpose of the prevention or control of fire or the underwater recovery of drowning victims, the
54 members of which are under the jurisdiction of the corporate authorities of a city, village,
55 incorporated town, or fire protection district. Volunteer firefighter shall not mean an individual
56 who volunteers assistance without being regularly enrolled as a firefighter.

57 3. (1) A claim for compensation under this section shall be filed by the estate of the
58 deceased with the division of workers' compensation not later than one year from the date of
59 death of a law enforcement officer, emergency medical technician, air ambulance pilot, air
60 ambulance registered professional nurse, or firefighter. If a claim is made within one year of the

61 date of death of a law enforcement officer, emergency medical technician, air ambulance pilot,
62 air ambulance registered professional nurse, or firefighter killed in the line of duty, compensation
63 shall be paid, if the division finds that the claimant is entitled to compensation under this section.

64 (2) The amount of compensation paid to the claimant shall be twenty-five thousand
65 dollars, subject to appropriation, for death occurring on or after June 19, 2009.

66 4. Notwithstanding subsection 3 of this section, no compensation is payable under this
67 section unless a claim is filed within the time specified under this section setting forth:

68 (1) The name, address, and title or designation of the position in which the law
69 enforcement officer, emergency medical technician, air ambulance pilot, air ambulance
70 registered professional nurse, or firefighter was serving at the time of his or her death;

71 (2) The name and address of the claimant;

72 (3) A full, factual account of the circumstances resulting in or the course of events
73 causing the death at issue; and

74 (4) Such other information that is reasonably required by the division.

75 When a claim is filed, the division of workers' compensation shall make an investigation for
76 substantiation of matters set forth in the application.

77 5. The compensation provided for under this section is in addition to, and not exclusive
78 of, any pension rights, death benefits, or other compensation the claimant may otherwise be
79 entitled to by law.

80 6. Neither employers nor workers' compensation insurers shall have subrogation rights
81 against any compensation awarded for claims under this section. Such compensation shall not
82 be assignable, shall be exempt from attachment, garnishment, and execution, and shall not be
83 subject to setoff or counterclaim, or be in any way liable for any debt, except that the division
84 or commission may allow as lien on the compensation, reasonable attorney's fees for services in
85 connection with the proceedings for compensation if the services are found to be necessary.
86 Such fees are subject to regulation as set forth in section 287.260.

87 7. Any person seeking compensation under this section who is aggrieved by the decision
88 of the division of workers' compensation regarding his or her compensation claim, may make
89 application for a hearing as provided in section 287.450. The procedures applicable to the
90 processing of such hearings and determinations shall be those established by this chapter.
91 Decisions of the administrative law judge under this section shall be binding, subject to review
92 by either party under the provisions of section 287.480.

93 8. Pursuant to section 23.253 of the Missouri sunset act:

94 (1) The provisions of the new program authorized under this section shall automatically
95 sunset six years after June 19, 2009, unless reauthorized by an act of the general assembly; and

96 (2) If such program is reauthorized, the program authorized under this section shall
97 automatically sunset twelve years after the effective date of the reauthorization of this section;
98 and

99 (3) This section shall terminate on September first of the calendar year immediately
100 following the calendar year in which the program authorized under this section is sunset.

101 9. The provisions of this section, unless specified, shall not be subject to other provisions
102 of this chapter.

103 10. There is hereby created in the state treasury the "Line of Duty Compensation Fund",
104 which shall consist of moneys appropriated to the fund and any voluntary contributions, gifts,
105 or bequests to the fund. The state treasurer shall be custodian of the fund and shall approve
106 disbursements from the fund in accordance with sections 30.170 and 30.180. Upon
107 appropriation, money in the fund shall be used solely for paying claims under this section.
108 Notwithstanding the provisions of section 33.080 to the contrary, any moneys remaining in the
109 fund at the end of the biennium shall not revert to the credit of the general revenue fund. The
110 state treasurer shall invest moneys in the fund in the same manner as other funds are invested.
111 Any interest and moneys earned on such investments shall be credited to the fund.

112 11. The division shall promulgate rules to administer this section, including but not
113 limited to the appointment of claims to multiple claimants, record retention, and procedures for
114 information requests. Any rule or portion of a rule, as that term is defined in section 536.010,
115 that is created under the authority delegated in this section shall become effective only if it
116 complies with and is subject to all of the provisions of chapter 536 and, if applicable, section
117 536.028. This section and chapter 536 are nonseverable and if any of the powers vested with the
118 general assembly under chapter 536 to review, to delay the effective date, or to disapprove and
119 annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and
120 any rule proposed or adopted after June 19, 2009, shall be invalid and void.

321.015. 1. No person holding any lucrative office or employment under this state, or
2 any political subdivision thereof as defined in section 70.120, shall hold the office of fire
3 protection district director under this chapter. When any fire protection district director accepts
4 any office or employment under this state or any political subdivision thereof, his office shall
5 thereby be vacated and he shall thereafter perform no duty and receive no salary or expenses as
6 fire protection district director.

7 2. This section shall not apply to:

8 (1) Members of the organized militia, of the reserve corps, public school employees and
9 notaries public;

10 (2) Fire protection districts located wholly within counties of the second, third or fourth
11 classification;

12 (3) Fire protection districts in counties of the first classification with less than eighty-five
13 thousand inhabitants;

14 (4) Fire protection districts located within counties of the first classification not
15 adjoining any other county of the first classification;

16 (5) Fire protection districts located within any county of the first or second classification
17 not having more than nine hundred thousand inhabitants which borders any three counties of the
18 first classification;

19 (6) Fire protection districts located within any county of the first classification which
20 adjoins both a county with a charter form of government with more than nine hundred fifty
21 thousand inhabitants, and adjoins at least four other counties;

22 (7) Fire protection districts located within any county of the first classification with more
23 than one hundred fifty thousand but fewer than two hundred thousand inhabitants.

24 3. For the purposes of this section, the term "lucrative office or employment" does not
25 include **part-time employment as defined as less than thirty-five hours per week**, receiving
26 retirement benefits, compensation for expenses, or [a stipend or per diem, in an amount not to
27 exceed seventy-five dollars for each day of service,] for service rendered to a fire protection
28 district, the state or any political subdivision thereof.

321.130. [1.] A person, to be qualified to serve as a director, shall be a **resident and**
2 voter of the district **for** at least one year before the election or appointment and be over the age
3 of twenty-five years[; except as provided in subsections 2 and 3 of this section. The person shall
4 also be a resident of such fire protection district]. In the event the person is no longer a resident
5 of the district, the person's office shall be vacated, and the vacancy shall be filled as provided in
6 section 321.200. Nominations and declarations of candidacy shall be filed at the headquarters
7 of the fire protection district by paying a [ten dollar] filing fee **equal to the amount of a**
8 **candidate for county office as set forth under section 115.357**, and filing a statement under
9 oath that such person possesses the required qualifications.

10 [2. In any fire protection district located in more than one county one of which is a first
11 class county without a charter form of government having a population of more than one hundred
12 ninety-eight thousand and not adjoining any other first class county or located wholly within a
13 first class county as described herein, a resident shall have been a resident of the district for more
14 than one year to be qualified to serve as a director.

15 3. In any fire protection district located in a county of the third or fourth classification,
16 a person to be qualified to serve as a director shall be over the age of twenty-five years and shall
17 be a voter of the district for more than one year before the election or appointment, except that
18 for the first board of directors in such district, a person need only be a voter of the district for one
19 year before the election or appointment.

20 4. A person desiring to become a candidate for the first board of directors of the
21 proposed district shall pay the sum of five dollars as a filing fee to the treasurer of the county and
22 shall file with the election authority a statement under oath that such person possesses all of the
23 qualifications set out in this chapter for a director of a fire protection district.] Thereafter, such
24 candidate shall have the candidate's name placed on the ballot as a candidate for director.

 321.210. On the first Tuesday in April after the expiration of at least two full calendar
2 years from the date of the election of the first board of directors, and on the first Tuesday in April
3 every two years thereafter, an election for members of the board of directors shall be held in the
4 district. Nominations shall be filed at the headquarters of the fire protection district in which a
5 majority of the district is located by paying a filing fee up to the amount of a candidate for [state
6 representative] **county office** as set forth under section 115.357 and filing a statement under oath
7 that [he] **the candidate** possesses the required qualifications. The candidate receiving the most
8 votes shall be elected. Any new member of the board shall qualify in the same manner as the
9 members of the first board qualify.

✓