

SECOND REGULAR SESSION
HOUSE COMMITTEE SUBSTITUTE FOR
HOUSE BILL NO. 1912
98TH GENERAL ASSEMBLY

5160H.02C

D. ADAM CRUMBLISS, Chief Clerk

AN ACT

To repeal sections 49.330, 49.410, 49.420, 49.430, 49.440, 50.660, 50.783, 50.790, 55.161, 64.875, and 139.031, RSMo, and to enact in lieu thereof ten new sections relating to political subdivisions, with penalty provisions.

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

Section A. Sections 49.330, 49.410, 49.420, 49.430, 49.440, 50.660, 50.783, 50.790,
2 55.161, 64.875, and 139.031, RSMo, are repealed and ten new sections enacted in lieu thereof,
3 to be known as sections 49.410, 49.420, 49.430, 49.440, 50.660, 50.783, 50.790, 55.161, 64.875,
4 and 139.031 to read as follows:

49.410. When the ground for erecting any public building shall be designated, as
2 aforesaid, [the superintendent shall prepare and submit to] the county commission **shall have**
3 **prepared** a plan of the building to be erected, the dimensions thereof, and the materials of which
4 it is to be composed, with an estimate of the probable cost thereof.

49.420. When any plan shall be approved by the county commission, the
2 [superintendent] **county commission** shall immediately advertise for bids for the erection and
3 construction of same, stating in such advertisement a description of such building or buildings,
4 and shall contract with the person or firm who will agree to do the work and furnish the
5 necessary material on the lowest and best terms not exceeding the amount appropriated or set
6 apart for such building or buildings; provided, that in case the lowest bid received shall be in
7 excess of the amount appropriated, after two successive advertisements for such bids, then, if
8 such county commission shall be of the opinion that such building or buildings can be
9 constructed or built for a sum not in excess of the amount appropriated, or if the commission
10 shall be of the opinion that there is collusion or combination between the bidders for the purpose
11 of forcing the county to pay an exorbitant price for the construction of such building or buildings,

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.

12 then, the commission may, in its discretion, let such building or buildings at private contract, to
13 be constructed according to original plans and specifications upon which bids were received and
14 approved by the county commission.

49.430. The [superintendent] **county commission** shall take from the contractor a bond
2 to the county, with sufficient security, for the performance of the work at the time and in the
3 manner agreed on, according to the plan, under a penalty at least one hundred ten percent of the
4 amount to be given for erecting the building. A copy of the plan shall be annexed to the bond.

49.440. The [superintendent shall oversee and direct] **county commission may contract**
2 **for oversight and direction of** the execution of the work[, and] **to** see that the materials
3 employed are good[,] and that the work is executed according to contract[,] . [and make] **The**
4 **contractor shall report [of] on** the progress and condition thereof, from time to time, to the
5 county commission.

50.660. 1. All contracts shall be executed in the name of the county, or in the name of
2 a township in a county with a township form of government, by the head of the department or
3 officer concerned, except contracts for the purchase of supplies, materials, equipment or services
4 other than personal made by the officer in charge of purchasing in any county or township having
5 the officer. No contract or order **in excess of ten thousand dollars** imposing any financial
6 obligation on the county or township is binding on the county or township unless it is in writing
7 and unless there is a balance otherwise unencumbered to the credit of the appropriation to which
8 it is to be charged and a cash balance otherwise unencumbered in the treasury to the credit of the
9 fund from which payment is to be made, each sufficient to meet the obligation incurred and
10 unless the contract or order **in excess of ten thousand dollars** bears the certification of the
11 accounting officer so stating; except that in case of any contract for public works or buildings
12 to be paid for from bond funds or from taxes levied for the purpose it is sufficient for the
13 accounting officer to certify that the bonds or taxes have been authorized by vote of the people
14 and that there is a sufficient unencumbered amount of the bonds yet to be sold or of the taxes
15 levied and yet to be collected to meet the obligation in case there is not a sufficient
16 unencumbered cash balance in the treasury. All contracts and purchases shall be let to the lowest
17 and best bidder after due opportunity for competition, including advertising the proposed letting
18 in a newspaper in the county or township with a circulation of at least five hundred copies per
19 issue, if there is one, except that the advertising is not required in case of contracts or purchases
20 involving an expenditure of less than [six] **ten** thousand dollars. It is not necessary to obtain bids
21 on any purchase in the amount of [four] **ten** thousand [five hundred] dollars or less made from
22 any one person, firm or corporation during any [period of ninety days] **fiscal year** or, if the
23 county is any county of the first classification with more than one hundred fifty thousand but
24 fewer than two hundred thousand inhabitants or any county of the first classification with more

25 than two hundred sixty thousand but fewer than three hundred thousand inhabitants, it is not
26 necessary to obtain bids on such purchases in the amount of six thousand dollars or less. All bids
27 for any contract or purchase may be rejected and new bids advertised for. Contracts which
28 provide that the person contracting with the county or township shall, during the term of the
29 contract, furnish to the county or township at the price therein specified the supplies, materials,
30 equipment or services other than personal therein described, in the quantities required, and from
31 time to time as ordered by the officer in charge of purchasing during the term of the contract,
32 need not bear the certification of the accounting officer, as herein provided; but all orders for
33 supplies, materials, equipment or services other than personal shall bear the certification. In case
34 of such contract, no financial obligation accrues against the county or township until the supplies,
35 materials, equipment or services other than personal are so ordered and the certificate furnished.

36 2. Notwithstanding the provisions of subsection 1 of this section to the contrary,
37 advertising shall not be required in any county in the case of contracts or purchases involving an
38 expenditure of less than [six] **ten** thousand dollars.

50.783. 1. The county commission may waive the requirement of competitive bids or
2 proposals for supplies when the commission has determined in writing and entered into the
3 commission minutes that there is only a single feasible source for the supplies. Immediately
4 upon discovering that other feasible sources exist, the commission shall rescind the waiver and
5 proceed to procure the supplies through the competitive processes as described in this chapter.
6 A single feasible source exists when:

7 (1) Supplies are proprietary and only available from the manufacturer or a single
8 distributor; or

9 (2) Based on past procurement experience, it is determined that only one distributor
10 services the region in which the supplies are needed; or

11 (3) Supplies are available at a discount from a single distributor for a limited period of
12 time.

13 2. On any single feasible source purchase where the estimated expenditure is [three]
14 **more than five thousand dollars but less than ten** thousand dollars [or over], the commission
15 shall post notice of the proposed purchase. Where the estimated expenditure is [five] **ten**
16 thousand dollars or over, the commission shall also advertise the commission's intent to make
17 such purchase in at least one daily and one weekly newspaper of general circulation in such
18 places as are most likely to reach prospective bidders or offerors and may provide such
19 information through an electronic medium available to the general public at least ten days before
20 the contract is to be let.

21 3. Notwithstanding subsection 2 of this section to the contrary, on any single feasible
22 service purchase by any county of the first classification with more than one hundred fifty

23 thousand but fewer than two hundred thousand inhabitants or any county of the first
24 classification with more than two hundred sixty thousand but fewer than three hundred thousand
25 inhabitants where the estimated expenditure is six thousand dollars or over, the commission shall
26 post notice of the proposed purchase and advertise the commission's intent to make such
27 purchase in at least one daily and one weekly newspaper of general circulation in such places as
28 are most likely to reach prospective bidders or offerors and may provide such information
29 through an electronic medium available to the general public at least ten days before the contract
30 is to be let.

50.790. It shall hereafter be unlawful for the commissioners of the county commission
2 of any county of this state to which sections 50.760 to 50.790 apply to draw, or authorize the
3 drawing of, any check or county warrant, or other order for the payment of money for any
4 supplies for any county officer for which an order or requisition has not first been obtained as
5 in sections 50.760 to 50.790 required. Whosoever shall violate the provisions of this law shall
6 be deemed guilty of [a misdemeanor] **an infraction** and upon conviction thereof shall be
7 punished by a fine of not [less than fifty dollars nor more than one thousand] **more than one**
8 **hundred** dollars, or by imprisonment in the county jail for a term of not less than thirty days nor
9 more than one year, or by both such fine and imprisonment; provided, that if any such
10 commissioner shall be absent at the time, or shall cause his protest against such action to be
11 entered in the minutes of the commission, when any violation of this law is ordered by the other
12 commissioners of such commission, he shall not be deemed to have violated the provisions of
13 this law.

55.161. In addition to all other duties imposed upon the county auditor in counties of the
2 first class not having a charter form of government and in counties of the second class, [he] **the**
3 **auditor** shall have the following duties:

4 (1) He **or she** shall audit, examine and adjust all accounts of county officials and courts
5 operating in such counties where there is an accumulation of moneys, taxes, fees, fines and
6 miscellaneous public funds received from any and all sources by county officials and courts
7 operating in such counties, and which are accumulated and intended for public purposes other
8 than the general administrative functions of the county, provided that such extra duty of
9 accounting is to be performed in the same manner as is now by statute prescribed for the general
10 county administrative business. He **or she** shall also audit moneys and funds belonging to any
11 levee district organized and operating in such county, moneys to be disbursed to school districts
12 organized and operating in such county, and moneys to be disbursed in the county for library,
13 hospital, recreation, public health and civil defense purposes;

14 (2) He **or she** shall prepare a statement of the estimated revenues of the county,
15 classified as to funds and sources, and shall furnish the budget officer of the county with an

16 itemized list of county expenditures for as many previous fiscal years as may be deemed proper
17 for enabling the budget officer to arrive at a reasonable estimate of the anticipated revenues and
18 the necessary expenses of the county in the preparation of the county budget;

19 (3) [He shall countersign, on behalf of the county, all licenses issued for the sale of
20 intoxicating liquor and shall keep in a readily accessible form a record of all such county licenses
21 issued; and

22 (4) In counties of the second [class] **classification** only, he **or she** shall serve as a
23 member of the county board of equalization.

64.875. The regulations imposed and the districts created under authority of sections
2 64.845 to 64.880 may be amended from time to time by the county commission by order after
3 the order establishing the same has gone into effect but no amendments shall be made by the
4 county commission except after recommendation of the county planning commission, or if there
5 be no county planning commission, of the county zoning commission, after hearings thereon by
6 the **county** commission. Public notice of the hearings shall be given in the same manner as
7 provided for the hearing in section 64.815. In case of written protest against any proposed
8 change or amendment, signed and acknowledged by the owners of thirty percent of the frontage
9 within one thousand feet to the right or left of the frontage proposed to be changed, or by the
10 owners of thirty percent of the frontage directly opposite, or directly in the rear of the frontage
11 proposed to be altered, or in cases where the land affected lies within one and one-half miles of
12 the corporate limits of a municipality having in effect ordinances zoning property within the
13 corporate limits of a municipality, made by resolution of the city council or board of trustees
14 thereof, and filed with the county clerk, the amendment may not be passed except by the
15 favorable vote of two-thirds of all the members of the county commission.

139.031. 1. Any taxpayer may protest all or any part of any current taxes assessed
2 against the taxpayer, except taxes collected by the director of revenue of Missouri. Any such
3 taxpayer desiring to pay any current taxes under protest or while paying taxes based upon a
4 disputed assessment shall, at the time of paying such taxes, make full payment of the current tax
5 bill before the delinquency date and file with the collector a written statement setting forth the
6 grounds on which the protest is based. The statement shall include the true value in money
7 claimed by the taxpayer if disputed. An appeal before the state tax commission shall not be
8 dismissed on the grounds that a taxpayer failed to file a written statement when paying taxes
9 based upon a disputed assessment.

10 2. Upon receiving payment of current taxes under protest pursuant to subsection 1 of this
11 section or upon receiving from the state tax commission or the circuit court notice of an appeal
12 from the state tax commission or the circuit court pursuant to section 138.430, along with full
13 payment of the current tax bill before the delinquency date, the collector shall disburse to the

14 proper official all portions of taxes not protested or not disputed by the taxpayer and shall
15 impound in a separate fund all portions of such taxes which are protested or in dispute. Every
16 taxpayer protesting the payment of current taxes under subsection 1 of this section shall, within
17 ninety days after filing his protest, commence an action against the collector by filing a petition
18 for the recovery of the amount protested in the circuit court of the county in which the collector
19 maintains his office. If any taxpayer so protesting his taxes under subsection 1 of this section
20 shall fail to commence an action in the circuit court for the recovery of the taxes protested within
21 the time prescribed in this subsection, such protest shall become null and void and of no effect,
22 and the collector shall then disburse to the proper official the taxes impounded, and any interest
23 earned thereon, as provided above in this subsection.

24 3. 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 or the circuit court in its judgment may order
29 all or any part of such taxes refunded to the taxpayer, or may authorize the collector to release
30 and disburse all or any part of such taxes.

31 4. Trial of the action for recovery of taxes protested under subsection 1 of this section
32 in the circuit court shall be in the manner prescribed for nonjury civil proceedings, and, after
33 determination of the issues, the court shall make such orders as may be just and equitable to
34 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 5. 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. **No**
47 **refund or credit of one thousand dollars or more shall be issued by any county collector**
48 **or any collector of taxes in any city not within a county unless a determination has first**

49 **been made by the applicable county commission, board of equalization, or court of**
50 **competent jurisdiction that the taxes in question were erroneously or mistakenly paid.**

51 6. No taxpayer shall receive any interest on any money paid in by the taxpayer
52 erroneously.

53 7. All protested taxes impounded under protest under subsection 1 of this section and
54 all disputed taxes impounded under notice as required by section 138.430 shall be invested by
55 the collector in the same manner as assets specified in section 30.260 for investment of state
56 moneys. A taxpayer who is entitled to a refund of protested or disputed taxes shall also receive
57 the interest earned on the investment thereof. If the collector is ordered to release and disburse
58 all or part of the taxes paid under protest or dispute to the proper official, such taxes shall be
59 disbursed along with the proportional amount of interest earned on the investment of the taxes
60 due the particular taxing authority.

61 8. Any taxing authority may request to be notified by the county collector of current
62 taxes paid under protest. Such request shall be in writing and submitted on or before February
63 first next following the delinquent date of current taxes paid under protest or disputed, and the
64 county collector shall provide such information on or before March first of the same year to the
65 requesting taxing authority of the taxes paid under protest and disputed taxes which would be
66 received by such taxing authority if the funds were not the subject of a protest or dispute. Any
67 taxing authority may apply to the circuit court of the county or city not within a county in which
68 a collector has impounded protested or disputed taxes under this section and, upon a satisfactory
69 showing that such taxing authority would receive such impounded tax funds if they were not the
70 subject of a protest or dispute and that such taxing authority has the financial ability and legal
71 capacity to repay such impounded tax funds in the event a decision ordering a refund to the
72 taxpayer is subsequently made, the circuit court shall order, pendente lite, the disbursement of all or
73 any part of such impounded tax funds to such taxing authority. The circuit court issuing an order
74 under this subsection shall retain jurisdiction of such matter for further proceedings, if any, to
75 compel restitution of such tax funds to the taxpayer. In the event that any protested or disputed
76 tax funds refunded to a taxpayer were disbursed to a taxing authority under this subsection
77 instead of being held and invested by the collector under subsection 7 of this section, such taxing
78 authority shall pay the taxpayer entitled to the refund of such protested or disputed taxes the
79 same amount of interest, as determined by the circuit court having jurisdiction in the matter, such
80 protested or disputed taxes would have earned if they had been held and invested by the
81 collector.

82 9. No appeal filed from the circuit court's or state tax commission's determination
83 pertaining to the amount of refund shall stay any order of refund, but the decision filed by any
84 court of last review modifying that determination shall be binding on the parties, and the decision

85 rendered shall be complied with by the party affected by any modification within ninety days of
86 the date of such decision. No taxpayer shall receive any interest on any additional award of
87 refund, and the collector shall not receive any interest on any ordered return of refund in whole
88 or in part.

2 [49.330. The county commission shall appoint some suitable person to
3 superintend the erection of the buildings who shall take an oath to discharge
4 faithfully and impartially the duties enjoined on him by sections 49.310 to
5 49.470. The superintendent of the county buildings shall receive the
6 compensation for his services that the county commission deems reasonable, to
7 be paid out of the county treasury. The county commission shall fill any vacancy
which occurs in the office of superintendent.]

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