

SECOND REGULAR SESSION

[TRULY AGREED TO AND FINALLY PASSED]

HOUSE BILL NO. 1870

98TH GENERAL ASSEMBLY

5399H.01T

2016

AN ACT

To repeal sections 1.310, 94.360, 143.121, 143.173, and 285.530, RSMo, and to enact in lieu thereof five new sections relating to the collection of money by public entities.

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

Section A. Sections 1.310, 94.360, 143.121, 143.173, and 285.530, RSMo, are repealed
2 and five new sections enacted in lieu thereof, to be known as sections 1.310, 94.360, 143.121,
3 143.173, and 285.530, to read as follows:

1.310. 1. This section shall be known and may be cited as the "Big Government Get Off
2 My Back Act".

3 2. Any federal mandate compelling the state to enact, enforce, or administer a federal
4 regulatory program shall be subject to authorization through appropriation or statutory
5 enactment.

6 3. No user fees imposed by the state of Missouri shall increase for the five-year period
7 beginning on August 28, 2009, **and for the five-year period beginning on August 28, 2016,**
8 unless such fee increase is to implement a federal program administered by the state or is a result
9 of an act of the general assembly. For purposes of this section, "user fee" does not include
10 employer taxes or contributions, assessments to offset the cost of examining insurance or
11 financial institutions, any health-related taxes approved by the Center for Medicare and Medicaid
12 Services, or any professional or occupational licensing fees set by a board of members of that
13 profession or occupation and required by statute to be set at a level not to exceed the cost of
14 administration.

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.

15 4. For the five-year period beginning on August 28, 2009, **and for the five-year period**
16 **beginning on August 28, 2016**, any state agency proposing a rule as that term is defined in
17 subdivision (6) of section 536.010, other than any rule promulgated as a result of a federal
18 mandate, or to implement a federal program administered by the state or an act of the general
19 assembly, shall either:

20 (1) Certify that the rule does not have an adverse impact on small businesses consisting
21 of fewer than fifty full- or part-time employees; or

22 (2) Certify that the rule is necessary to protect the life, health or safety of the public; [or]

23 (3) **Certify that the rule relates to the implementation of a government program that**
24 **utilizes private contractors and the rule would result in net savings to Missouri taxpayers;**
25 **or**

26 (4) Exempt any small business consisting of fewer than fifty full- or part-time employees
27 from coverage.

28 5. The provisions of this section shall not be construed to prevent or otherwise restrict
29 an agency from promulgating emergency rules pursuant to section 536.025, or from rescinding
30 any existing rule pursuant to section 536.021.

94.360. 1. The council of any incorporated town or city in this state having a special
2 charter and which contains not more than thirty thousand inhabitants may by ordinance levy and
3 collect a license tax on wholesale houses, auctioneers, architects, druggists, grocers, banks,
4 brokers, wholesale merchants, merchants of all kinds, confectioners, delivery trucks, ice trucks,
5 transfer trucks, laundry wagons, milk wagons, merchant delivery companies, cigar and tobacco
6 stands, hay scales, wood dealers, coal dealers, coal distributors, coal truckers, lumber dealers,
7 real estate agents, loan companies, abstracters, abstract agencies, loan agents, collection agencies,
8 undertakers, public buildings, office buildings, public halls, public grounds, concerts,
9 photographers in office or upon streets, canvassers, artists, drummers, patent right dealers,
10 insurance companies, insurance agents, taverns, hotels, rooming houses, boarding houses,
11 sanitariums, hospitals, health schools, telephone companies, street contractors, paperhanger
12 contractors, painting contractors, plastering contractors, and all subcontractors, flour mills,
13 express company agencies, opticians, wagons, buggies, carriages, tanners, barbers, barbershops,
14 hairdressers, hair dressing shops, whether conducted in connection with other business or
15 separate, beauty parlors, tailors, florists, nursery stock agents, bookbinders, monument dealers,
16 and agencies, manufacturing agents, shoe cobbler shops, storage warehouses, shoe shining
17 parlors, job printing plants, outdoor advertising, ready-to-wear clothing agencies, tailor-made
18 clothing agencies, sewing machine agencies, piano and organ dealers and agents, foreign coffee
19 and tea dealers, and agents or all other vocations whatsoever, and fix the rate of carriage of
20 persons and wagonage, drayage and cartage of property; and may levy and collect a license tax

21 and regulate hawkers, peddlers, pawnbrokers, restaurants, butchers, wholesale butchers,
22 bathhouses and masseurs, lunch stands, lunch counters, lunch wagons, soft drink and ice cream
23 stands and vendors, ice cream parlors, peanut and popcorn stands, and stands of every kind,
24 hucksters, opera houses, moving picture shows, private parks, public lectures, public meetings,
25 baseball parks, horse and cattle dealers, stockyards, wagon yards, auto yards, oil stations,
26 wholesale and retail inspectors, gaugers, mercantile agents, manufacturing and other
27 corporations, or institutions, machine shops, blacksmith shops, radio repair shops, foundries,
28 sewer contractors, building contractors, stone contractors, sidewalk contractors, bridge
29 contractors, plumbing contractors, brick contractors, cement contractors, and all subcontractors,
30 street railroad cars, gas companies, light companies, power companies, and water companies,
31 laundries, laundry agencies, rug and carpet cleaners, linen supply rental service, conditioning and
32 renting for use, bed linen, table linen, towels, rugs, uniform aprons, coats, caps, coveralls, chair
33 covers, automobile seat covers or any other items, ice plants and ice plant agencies, ice dealers,
34 omnibuses, automobiles, automobile trailers, tractors, carts, drays, milk wagons, laundry wagons,
35 delivery wagons, transfer and job wagons, ice wagons, and all other vehicles, traveling and
36 auction stores, plumbers, pressing establishments, installment houses and agencies, produce and
37 poultry dealers, feather renovators, baker and bakeries, bakery delivery wagons, and delivery
38 autos, bottling works, dye works, cleaning establishments, sand plants, steamfitters, corn doctors,
39 chiropodists, hackmen, taxicabs, buses, draymen, omnibus drivers, porters, dairies, and regulate
40 the same, and all others pursuing like occupations; and may levy and collect a license tax,
41 regulate, restrain, prohibit and suppress ordinaries, money brokers, money changers, intelligence
42 and employment offices, and agencies, public masquerades, balls, street exhibitions, dance halls,
43 fortune tellers, pistol galleries, shooting galleries, palmists, private venereal hospitals, museums,
44 menageries, equestrian performances, fluoroscopic views, picture shows, telescopic views, lung
45 testers, muscle developers, magnifying glasses, ten pin alleys, ball alleys, bowling alleys, billiard
46 tables, pool and other tables, miniature golf courses, theatrical or other exhibitions, boxing and
47 sparring exhibitions, shows and amusements, amusement parks, and the sale of unclaimed goods
48 by express companies or common carriers, auto wrecking shops, bill posters, junk dealers,
49 porters, carnival and street fairs, circuses and shows for parade and exhibition, or both, skating
50 rinks and runners, and solicitors for steamboats, cars, stages, taxicabs, hotels, rooming houses,
51 boarding houses, bathhouses, masseurs, hospitals, sanitariums, health schools, and all others
52 pursuing like occupations.

53 **2. Notwithstanding any other law to the contrary, on or after May 1, 2016, a city**
54 **shall not impose a business license tax on any business under more than one of the**
55 **following section: section 94.110, 94.270, or 94.360. The provisions of this section shall not**

56 **apply to any tax levied in compliance with subsection 7 of section 94.270 nor shall it apply**
57 **to any tax levied under section 92.045.**

143.121. 1. The Missouri adjusted gross income of a resident individual shall be the
2 taxpayer's federal adjusted gross income subject to the modifications in this section.

3 2. There shall be added to the taxpayer's federal adjusted gross income:

4 (1) The amount of any federal income tax refund received for a prior year which resulted
5 in a Missouri income tax benefit;

6 (2) Interest on certain governmental obligations excluded from federal gross income by
7 Section 103 of the Internal Revenue Code. The previous sentence shall not apply to interest on
8 obligations of the state of Missouri or any of its political subdivisions or authorities and shall not
9 apply to the interest described in subdivision (1) of subsection 3 of this section. The amount
10 added pursuant to this subdivision shall be reduced by the amounts applicable to such interest
11 that would have been deductible in computing the taxable income of the taxpayer except only
12 for the application of Section 265 of the Internal Revenue Code. The reduction shall only be
13 made if it is at least five hundred dollars;

14 (3) The amount of any deduction that is included in the computation of federal taxable
15 income pursuant to Section 168 of the Internal Revenue Code as amended by the Job Creation
16 and Worker Assistance Act of 2002 to the extent the amount deducted relates to property
17 purchased on or after July 1, 2002, but before July 1, 2003, and to the extent the amount
18 deducted exceeds the amount that would have been deductible pursuant to Section 168 of the
19 Internal Revenue Code of 1986 as in effect on January 1, 2002;

20 (4) The amount of any deduction that is included in the computation of federal taxable
21 income for net operating loss allowed by Section 172 of the Internal Revenue Code of 1986, as
22 amended, other than the deduction allowed by Section 172(b)(1)(G) and Section 172(i) of the
23 Internal Revenue Code of 1986, as amended, for a net operating loss the taxpayer claims in the
24 tax year in which the net operating loss occurred or carries forward for a period of more than
25 twenty years and carries backward for more than two years. Any amount of net operating loss
26 taken against federal taxable income but disallowed for Missouri income tax purposes pursuant
27 to this subdivision after June 18, 2002, may be carried forward and taken against any income on
28 the Missouri income tax return for a period of not more than twenty years from the year of the
29 initial loss; and

30 (5) For nonresident individuals in all taxable years ending on or after December 31,
31 2006, the amount of any property taxes paid to another state or a political subdivision of another
32 state for which a deduction was allowed on such nonresident's federal return in the taxable year
33 unless such state, political subdivision of a state, or the District of Columbia allows a subtraction

34 from income for property taxes paid to this state for purposes of calculating income for the
35 income tax for such state, political subdivision of a state, or the District of Columbia.

36 3. There shall be subtracted from the taxpayer's federal adjusted gross income the
37 following amounts to the extent included in federal adjusted gross income:

38 (1) Interest or dividends on obligations of the United States and its territories and
39 possessions or of any authority, commission or instrumentality of the United States to the extent
40 exempt from Missouri income taxes pursuant to the laws of the United States. The amount
41 subtracted pursuant to this subdivision shall be reduced by any interest on indebtedness incurred
42 to carry the described obligations or securities and by any expenses incurred in the production
43 of interest or dividend income described in this subdivision. The reduction in the previous
44 sentence shall only apply to the extent that such expenses including amortizable bond premiums
45 are deducted in determining the taxpayer's federal adjusted gross income or included in the
46 taxpayer's Missouri itemized deduction. The reduction shall only be made if the expenses total
47 at least five hundred dollars;

48 (2) The portion of any gain, from the sale or other disposition of property having a higher
49 adjusted basis to the taxpayer for Missouri income tax purposes than for federal income tax
50 purposes on December 31, 1972, that does not exceed such difference in basis. If a gain is
51 considered a long-term capital gain for federal income tax purposes, the modification shall be
52 limited to one-half of such portion of the gain;

53 (3) The amount necessary to prevent the taxation pursuant to this chapter of any annuity
54 or other amount of income or gain which was properly included in income or gain and was taxed
55 pursuant to the laws of Missouri for a taxable year prior to January 1, 1973, to the taxpayer, or
56 to a decedent by reason of whose death the taxpayer acquired the right to receive the income or
57 gain, or to a trust or estate from which the taxpayer received the income or gain;

58 (4) Accumulation distributions received by a taxpayer as a beneficiary of a trust to the
59 extent that the same are included in federal adjusted gross income;

60 (5) The amount of any state income tax refund for a prior year which was included in the
61 federal adjusted gross income;

62 (6) The portion of capital gain specified in section 135.357 that would otherwise be
63 included in federal adjusted gross income;

64 (7) The amount that would have been deducted in the computation of federal taxable
65 income pursuant to Section 168 of the Internal Revenue Code as in effect on January 1, 2002,
66 to the extent that amount relates to property purchased on or after July 1, 2002, but before July
67 1, 2003, and to the extent that amount exceeds the amount actually deducted pursuant to Section
68 168 of the Internal Revenue Code as amended by the Job Creation and Worker Assistance Act
69 of 2002;

70 (8) For all tax years beginning on or after January 1, 2005, the amount of any income
71 received for military service while the taxpayer serves in a combat zone which is included in
72 federal adjusted gross income and not otherwise excluded therefrom. As used in this section,
73 "combat zone" means any area which the President of the United States by Executive Order
74 designates as an area in which Armed Forces of the United States are or have engaged in combat.
75 Service is performed in a combat zone only if performed on or after the date designated by the
76 President by Executive Order as the date of the commencing of combat activities in such zone,
77 and on or before the date designated by the President by Executive Order as the date of the
78 termination of combatant activities in such zone; [and]

79 (9) For all tax years ending on or after July 1, 2002, with respect to qualified property
80 that is sold or otherwise disposed of during a taxable year by a taxpayer and for which an
81 additional modification was made under subdivision (3) of subsection 2 of this section, the
82 amount by which additional modification made under subdivision (3) of subsection 2 of this
83 section on qualified property has not been recovered through the additional subtractions provided
84 in subdivision (7) of this subsection.

85 4. There shall be added to or subtracted from the taxpayer's federal adjusted gross
86 income the taxpayer's share of the Missouri fiduciary adjustment provided in section 143.351.

87 5. There shall be added to or subtracted from the taxpayer's federal adjusted gross
88 income the modifications provided in section 143.411.

89 6. In addition to the modifications to a taxpayer's federal adjusted gross income in this
90 section, to calculate Missouri adjusted gross income there shall be subtracted from the taxpayer's
91 federal adjusted gross income any gain recognized pursuant to Section 1033 of the Internal
92 Revenue Code of 1986, as amended, arising from compulsory or involuntary conversion of
93 property as a result of condemnation or the imminence thereof.

94 7. (1) As used in this subsection, "qualified health insurance premium" means the
95 amount paid during the tax year by such taxpayer for any insurance policy primarily providing
96 health care coverage for the taxpayer, the taxpayer's spouse, or the taxpayer's dependents.

97 (2) In addition to the subtractions in subsection 3 of this section, one hundred percent
98 of the amount of qualified health insurance premiums shall be subtracted from the taxpayer's
99 federal adjusted gross income to the extent the amount paid for such premiums is included in
100 federal taxable income. The [taxpayer shall provide the] department of revenue [with] **may**
101 **request** proof of the amount of qualified health insurance premiums paid.

102 8. (1) Beginning January 1, 2014, in addition to the subtractions provided in this section,
103 one hundred percent of the cost incurred by a taxpayer for a home energy audit conducted by an
104 entity certified by the department of natural resources under section 640.153 or the
105 implementation of any energy efficiency recommendations made in such an audit shall be

106 subtracted from the taxpayer's federal adjusted gross income to the extent the amount paid for
107 any such activity is included in federal taxable income. The taxpayer shall provide the
108 department of revenue with a summary of any recommendations made in a qualified home
109 energy audit, the name and certification number of the qualified home energy auditor who
110 conducted the audit, and proof of the amount paid for any activities under this subsection for
111 which a deduction is claimed. The taxpayer shall also provide a copy of the summary of any
112 recommendations made in a qualified home energy audit to the department of natural resources.

113 (2) At no time shall a deduction claimed under this subsection by an individual taxpayer
114 or taxpayers filing combined returns exceed one thousand dollars per year for individual
115 taxpayers or cumulatively exceed two thousand dollars per year for taxpayers filing combined
116 returns.

117 (3) Any deduction claimed under this subsection shall be claimed for the tax year in
118 which the qualified home energy audit was conducted or in which the implementation of the
119 energy efficiency recommendations occurred. If implementation of the energy efficiency
120 recommendations occurred during more than one year, the deduction may be claimed in more
121 than one year, subject to the limitations provided under subdivision (2) of this subsection.

122 (4) A deduction shall not be claimed for any otherwise eligible activity under this
123 subsection if such activity qualified for and received any rebate or other incentive through a
124 state-sponsored energy program or through an electric corporation, gas corporation, electric
125 cooperative, or municipally owned utility.

126 9. The provisions of subsection 8 of this section shall expire on December 31, 2020.

143.173. 1. As used in this section, the following terms mean:

2 (1) "County average wage", the average wages in each county as determined by the
3 department of economic development for the most recently completed full calendar year.
4 However, if the computed county average wage is above the statewide average wage, the
5 statewide average wage shall be deemed the county average wage for such county for the purpose
6 of this section;

7 (2) "Deduction", an amount subtracted from the taxpayer's Missouri adjusted gross
8 income to determine Missouri taxable income, or federal taxable income in the case of a
9 corporation, for the tax year in which such deduction is claimed;

10 (3) "Full-time employee", a position in which the employee is considered full-time by
11 the taxpayer and is required to work an average of at least thirty-five hours per week for a
12 fifty-two week period;

13 (4) "New job", the number of full-time employees employed by the small business in
14 Missouri on the qualifying date that exceeds the number of full-time employees employed by the
15 small business in Missouri on the same date of the immediately preceding taxable year;

16 (5) "Qualifying date", any date during the tax year as chosen by the small business;

17 (6) "Small business", any small business, including any sole proprietorship, partnership,
18 S-corporation, C-corporation, limited liability company, limited liability partnership, or other
19 business entity, consisting of fewer than fifty full- or part-time employees;

20 (7) "Taxpayer", any small business subject to the income tax imposed in this chapter,
21 including any sole proprietorship, partnership, S-corporation, C-corporation, limited liability
22 company, limited liability partnership, or other business entity.

23 2. In addition to all deductions listed in this chapter, for all taxable years beginning on
24 or after January 1, 2011, and ending on or before December 31, 2014, **and for all tax years**
25 **beginning on or after January 1, 2016, and ending on or before December 31, 2020**, a
26 taxpayer shall be allowed a deduction for each new job created by the small business in the
27 taxable year. Tax deductions allowed to any partnership, limited liability company,
28 S-corporation, or other pass-through entity may be allocated to the partners, members, or
29 shareholders of such entity for their direct use in accordance with the provisions of any
30 agreement among such partners, members, or shareholders. The deduction amount shall be as
31 follows:

32 (1) Ten thousand dollars for each new job created with an annual salary of at least the
33 county average wage; or

34 (2) Twenty thousand dollars for each new job created with an annual salary of at least
35 the county average wage if the small business offers health insurance and pays at least fifty
36 percent of such insurance premiums.

37 3. The department of revenue shall establish the procedure by which the deduction
38 provided in this section may be claimed, and may promulgate rules to implement the provisions
39 of this section. Any rule or portion of a rule, as that term is defined in section 536.010, that is
40 created under the authority delegated in this section shall become effective only if it complies
41 with and is subject to all of the provisions of chapter 536 and, if applicable, section 536.028.
42 This section and chapter 536 are nonseverable and if any of the powers vested with the general
43 assembly under chapter 536 to review, to delay the effective date, or to disapprove and annul a
44 rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule
45 proposed or adopted after August 28, 2011, shall be invalid and void.

46 4. Under section 23.253 of the Missouri sunset act:

47 (1) The provisions of the new program authorized under this section shall automatically
48 sunset on December thirty-first three years after August 28, [2011] **2017**, unless reauthorized by
49 an act of the general assembly; and

50 (2) If such program is reauthorized, the program authorized under this section shall
51 automatically sunset on December thirty-first three years after the effective date of the
52 reauthorization of this section; and

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

285.530. 1. No business entity or employer shall knowingly employ, hire for
2 employment, or continue to employ an unauthorized alien to perform work within the state of
3 Missouri.

4 2. As a condition for the award of any contract or grant in excess of five thousand dollars
5 by the state or by any political subdivision of the state to a business entity, or for any business
6 entity receiving a state-administered or subsidized tax credit, tax abatement, or loan from the
7 state, the business entity shall, by sworn affidavit and provision of documentation, affirm its
8 enrollment and participation in a federal work authorization program with respect to the
9 employees working in connection with the contracted services, **unless participation in such**
10 **program would result in a substantial difficulty or expense on such business entity. In**
11 **considering whether or not a substantial difficulty or expense has been imposed on a**
12 **business, the following shall be considered:**

13 (1) **The nature and cost of participation in the program to the business;**

14 (2) **The overall financial resources of the business;**

15 (3) **The effect on expenses of the business; and**

16 (4) **Any other adverse results that a business may incur by participating in the**
17 **program.**

18

19 Every such business entity shall also sign an affidavit affirming that it does not knowingly
20 employ any person who is an unauthorized alien in connection with the contracted services. Any
21 entity contracting with the state or any political subdivision of the state shall only be required to
22 provide the affidavits required in this subsection to the state and any political subdivision of the
23 state with which it contracts, on an annual basis. During or immediately after an emergency, the
24 requirements of this subsection that a business entity enroll and participate in a federal work
25 authorization program shall be suspended for fifteen working days. As used in this subsection,
26 "emergency" includes the following natural and manmade disasters: major snow and ice storms,
27 floods, tornadoes, severe weather, earthquakes, hazardous material incidents, nuclear power plant
28 accidents, other radiological hazards, and major mechanical failures of a public utility facility.

29 3. All public employers shall enroll and actively participate in a federal work
30 authorization program.

31 4. An employer may enroll and participate in a federal work authorization program and
32 shall verify the employment eligibility of every employee in the employer's hire whose
33 employment commences after the employer enrolls in a federal work authorization program. The
34 employer shall retain a copy of the dated verification report received from the federal
35 government. Any business entity that participates in such program shall have an affirmative
36 defense that such business entity has not violated subsection 1 of this section.

37 5. A general contractor or subcontractor of any tier shall not be liable under sections
38 285.525 to 285.550 when such general contractor or subcontractor contracts with its direct
39 subcontractor who violates subsection 1 of this section, if the contract binding the contractor and
40 subcontractor affirmatively states that the direct subcontractor is not knowingly in violation of
41 subsection 1 of this section and shall not henceforth be in such violation and the contractor or
42 subcontractor receives a sworn affidavit under the penalty of perjury attesting to the fact that the
43 direct subcontractor's employees are lawfully present in the United States.

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