

FIRST REGULAR SESSION
HOUSE COMMITTEE SUBSTITUTE FOR
SENATE BILL NO. 95
99TH GENERAL ASSEMBLY

0355H.02C

D. ADAM CRUMBLISS, Chief Clerk

AN ACT

To repeal sections 50.622 and 108.170, RSMo, and to enact in lieu thereof two new sections relating to local government financial transactions.

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

Section A. Sections 50.622 and 108.170, RSMo, are repealed and two new sections
2 enacted in lieu thereof, to be known as sections 50.622 and 108.170, to read as follows:

50.622. 1. Any county may amend the annual budget during any fiscal year in which the
2 county receives additional funds, and such amount or source, including, but not limited to,
3 federal or state grants or private donations, could not be estimated when the budget was adopted.
4 The county shall follow the same procedures as required in sections 50.525 to 50.745 for
5 adoption of the annual budget to amend its budget during a fiscal year.

6 2. Any county may decrease the annual budget twice during any fiscal year in which the
7 county experiences a verifiable decline in funds of two percent or more, and such amount could
8 not be estimated or anticipated when the budget was adopted, provided that any decrease in
9 appropriations shall not unduly affect any one officeholder. Before any reduction affecting an
10 independently elected officeholder can occur, negotiations shall take place with all officeholders
11 who receive funds from the affected category of funds in an attempt to cover the shortfall. The
12 county shall follow the same procedures as required in sections 50.525 to 50.745 to decrease the
13 annual budget, except that the notice provided for in section 50.600 shall be extended to thirty
14 days for purposes of this subsection. Such notice shall include a published summary of the
15 proposed reductions and an explanation of the shortfall.

16 3. Any decrease in an appropriation authorized under subsection 2 of this section shall
17 not impact any dedicated fund otherwise provided by law.

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 4. County commissioners may reduce budgets of departments under their direct
19 supervision and responsibility at any time without the restrictions imposed by this section.

20 5. Subsections 2, 3, and 4 of this section shall expire on July 1, [~~2016~~] 2027.

21 6. Notwithstanding the provisions of this section, no charter county shall be restricted
22 from amending its budget under and pursuant to the terms of its charter.

108.170. 1. Notwithstanding any other provisions of any law or charter to the contrary,
2 any issue of bonds, notes, or other evidences of indebtedness, including bonds, notes, or other
3 evidences of indebtedness payable solely from revenues derived from any revenue-producing
4 facility, hereafter issued under any law of this state by any county, city, town, village, school
5 district, educational institution, drainage district, levee district, nursing home district, hospital
6 district, library district, road district, fire protection district, water supply district, sewer district,
7 housing authority, land clearance for redevelopment authority, special authority created under
8 section 64.920, authority created pursuant to the provisions of chapter 238, or other municipality,
9 political subdivision or district of this state shall be negotiable, may be issued in bearer form or
10 registered form with or without coupons to evidence interest payable thereon, may be issued in
11 any denomination, and may bear interest at a rate not exceeding ten percent per annum, and may
12 be sold, at any sale, at the best price obtainable, not less than ninety-five percent of the par value
13 thereof, anything in any proceedings heretofore had authorizing such bonds, notes, or other
14 evidence of indebtedness, or in any law of this state or charter provision to the contrary
15 notwithstanding. Such issue of bonds, notes, or other evidence of indebtedness may bear interest
16 at a rate not exceeding fourteen percent per annum if sold at public sale after giving reasonable
17 notice of such sale, at the best price obtainable, not less than ninety-five percent of the par value
18 thereof; provided, that such bonds, notes, or other evidence of indebtedness may be sold to any
19 agency or corporate or other instrumentality of the state of Missouri or of the federal government
20 at private sale at a rate not exceeding fourteen percent per annum. **Any political subdivision
21 that maintains a credit rating by a nationally recognized bond rating agency of A, AA, or
22 AAA issuing more than ten million dollars debt in a calendar year shall issue such debt
23 through a competitive process unless the political subdivision employs the services of a
24 municipal advisor, at which point the political subdivision may use a negotiated or
25 competitive process. A municipal advisor shall not be allowed to profit financially or
26 otherwise, either directly or indirectly, from the underwriting of a negotiated bond
27 issuance.**

28 2. Notwithstanding the provisions of subsection 1 of this section to the contrary, the sale
29 of bonds, notes, or other evidence of indebtedness issued by the state board of public buildings
30 created under section 8.010, the state board of fund commissioners created under section 33.300,
31 any port authority created under section 68.010, the bi-state metropolitan development district

32 authorized under section 70.370, any special business district created under section 71.790, any
33 county, as defined in section 108.465, exercising the powers granted by sections 108.450 to
34 108.470, the industrial development board created under section 100.265, any planned industrial
35 expansion authority created under section 100.320, the higher education loan authority created
36 under section 173.360, the Missouri housing development commission created under section
37 215.020, the state environmental improvement and energy resources authority created under
38 section 260.010, the agricultural and small business development authority created under section
39 348.020, any industrial development corporation created under section 349.035, or the health and
40 educational facilities authority created under section 360.020 shall, with respect to the sales
41 price, manner of sale and interest rate, be governed by the specific sections applicable to each
42 of these entities.

43 **3. Any person who is engaged as a municipal advisor by a political corporation or**
44 **subdivision with respect to a particular issue of securities shall be independent of the**
45 **underwriter of that issue of securities. For the purposes of this section, "municipal**
46 **advisor" shall mean a person registered as a municipal advisor under the rules of the**
47 **United States Securities and Exchange Commission, and "independent" shall have the**
48 **same meaning as defined by the rules of the United States Securities and Exchange**
49 **Commission. In determining the individuals or entities that may serve as a municipal**
50 **advisor, nothing in this section shall be construed to be more restrictive than the definition**
51 **of a municipal advisor as established by the United States Securities and Exchange**
52 **Commission.**

53 **4.** Notwithstanding other provisions of this section or other law, the sale of bonds, notes
54 or other evidence of indebtedness issued by any housing authority created under section 99.040
55 may be sold at any sale, at the best price obtainable, not less than ninety-five percent of the par
56 value thereof, and may bear interest at a rate not exceeding fourteen percent per annum. The sale
57 shall be a public sale unless the issuing jurisdiction adopts a resolution setting forth clear
58 justification why the sale should be a private sale except that private activity bonds may be sold
59 either at public or private sale.

60 ~~[4.]~~ **5.** Notwithstanding other provisions of this section or law, industrial development
61 revenue bonds may be sold at private sale and bear interest at a rate not exceeding fourteen
62 percent per annum at the best price obtainable, not less than ninety-five percent of the par value
63 thereof.

64 ~~[5.]~~ **6.** Notwithstanding other provisions in subsection 1 of this section to the contrary,
65 revenue bonds issued for airport purposes by any constitutional charter city in this state which
66 now has or may hereafter acquire a population of more than three hundred thousand but less than
67 six hundred thousand inhabitants, according to the last federal decennial census, may bear

68 interest at a rate not exceeding fourteen percent per annum if sold at public sale after giving
69 reasonable notice, at the best price obtainable, not less than ninety-five percent of the par value
70 thereof.

71 ~~[6.]~~ 7. For purposes of the interest rate limitations set forth in this section, the interest
72 rate on bonds, notes or other evidence of indebtedness described in this section means the rate
73 at which the present value of the debt service payments on an issue of bonds, notes or other
74 evidence of indebtedness, discounted to the date of issuance, equals the original price at which
75 such bonds, notes or other evidence of indebtedness are sold by the issuer. Interest on bonds,
76 notes or other evidence of indebtedness may be paid periodically at such times as shall be
77 determined by the governing body of the issuer and may be compounded in accordance with
78 section 408.080.

79 ~~[7.]~~ 8. Notwithstanding any provision of law or charter to the contrary:

80 (1) Any entity referenced in subsection 1 or 2 of this section and any other political
81 corporation of the state which entity or political corporation has an annual operating budget for
82 the current year exceeding twenty-five million dollars may, in connection with managing the cost
83 to such entity or political corporation of purchasing fuel, electricity, natural gas, and other
84 commodities used in the ordinary course of its lawful operations, enter into agreements providing
85 for fixing the cost of such commodity, including without limitation agreements commonly
86 referred to as hedges, futures, and options; provided that as of the date of such agreement, such
87 entity or political corporation shall have complied with subdivision (3) of this subsection; and
88 further provided that no eligible school, as defined in section 393.310, shall be authorized by this
89 subsection to enter into such agreements in connection with the purchase of natural gas while the
90 tariffs required under section 393.310 are in effect;

91 (2) Any entity referenced in subsection 1 or 2 of this section and any other political
92 corporation of the state may, in connection with its bonds, notes, or other obligations then
93 outstanding or to be issued and bearing interest at a fixed or variable rate, enter into agreements
94 providing for payments based on levels of or changes in interest rates, including without
95 limitation certain derivative agreements commonly referred to as interest rate swaps, hedges,
96 caps, floors, and collars, provided that:

97 (a) As of the date of issuance of the bonds, notes, or other obligations to which such
98 agreement relates, such entity or political corporation will have bonds, notes, or other obligations
99 outstanding in an aggregate principal amount of at least fifty million dollars; and

100 (b) As of the date of such agreement, such entity's or political corporation's bonds, notes,
101 or other obligations then outstanding or to be issued have received a stand-alone credit rating in
102 one of the two highest categories, without regard to any gradation within such categories, from
103 at least one nationally recognized credit rating agency, or such entity or political corporation has

104 an issuer or general credit rating, in one of the two highest categories, without regard to any
105 gradation within such categories, from at least one nationally recognized credit rating agency;
106 and

107 (c) As of the date of such agreement, such entity or political corporation shall have
108 complied with subdivision (3) of this subsection;

109 (3) Prior to entering into any agreements pursuant to subdivision (1) or (2) of this
110 subsection, the governing body of the entity or political corporations entering into such
111 agreements shall have adopted a written policy governing such agreements. Such policy shall
112 be prepared by integrating the recommended practices published by the Government Finance
113 Officers Association or comparable nationally recognized professional organization and shall
114 provide guidance with respect to the permitted purposes, authorization process, mitigation of risk
115 factors, ongoing oversight responsibilities, market disclosure, financial strategy, and any other
116 factors in connection with such agreements determined to be relevant by the governing body of
117 such entity or political corporation. Such entity or political corporation may enter into such
118 agreements at such times and such agreements may contain such payment, security, default,
119 remedy, and other terms and conditions as shall be consistent with the written policy adopted
120 under this subdivision and as may be approved by the governing body of such entity or other
121 obligated party, including any rating by any nationally recognized rating agency and any other
122 criteria as may be appropriate;

123 (4) Nothing in this subsection shall be applied or interpreted to authorize any such entity
124 or political corporation to enter into any such agreement for investment purposes or to diminish
125 or alter the special or general power any such entity or political corporation may otherwise have
126 under any other provisions of law including the special or general power of any interstate
127 transportation authority.

128 **9. The state treasurer shall make available to municipalities, political subdivisions,**
129 **or districts listed under subsection 1 of this section relevant information regarding debt**
130 **issuance and bidding processes, including best practices resources published by a national**
131 **association of government finance officers on debt issuance, to aid such entities with the**
132 **process of issuing debt and awarding bonds to the best bidder.**

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