

FIRST REGULAR SESSION
HOUSE COMMITTEE SUBSTITUTE FOR
SENATE COMMITTEE SUBSTITUTE FOR
SENATE BILL NOS. 486 & 422
91ST GENERAL ASSEMBLY

Reported from the Committee on Local Government and Related Matters, May 2, 2001, with recommendation that the House Committee Substitute for Senate Committee Substitute for Senate Bill Nos. 486 & 422 Do Pass.

TED WEDEL, Chief Clerk

1015L.07C

AN ACT

To repeal sections 34.140, 67.582, 190.044, 190.050, 190.092, 190.094, 190.100, 190.105, 190.108, 190.109, 190.120, 190.142, 190.160, 190.165, 190.171, 190.175, 190.185, 190.196, 292.606, 320.091, 320.094, 321.130, 321.190, 321.300, 321.703 and 355.066, RSMo 2000, section 321.701 as enacted by senate substitute for senate committee substitute for house committee substitute for house bills nos. 452, 203, 377, 472, 473, 556 & 647, eighty-eighth general assembly, first regular session, and section 321.701 as enacted by conference committee substitute for senate substitute no. 2 for house committee substitute for house bills nos. 484, 199 & 72, eighty-eighth general assembly, first regular session, relating to the provision of emergency services, and to enact in lieu thereof fifty-three new sections relating to the same subject, with penalty provisions.

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

Section A. Sections 34.140, 67.582, 190.044, 190.050, 190.092, 190.094, 190.100, 190.105, 190.108, 190.109, 190.120, 190.142, 190.160, 190.165, 190.171, 190.175, 190.185, 190.196, 292.606, 320.091, 320.094, 321.130, 321.190, 321.300, 321.703 and 355.066, RSMo 2000, section 321.701 as enacted by senate substitute for senate committee substitute for house committee substitute for house bills nos. 452, 203, 377, 472, 473, 556 & 647, eighty-eighth general assembly, first regular session, and section 321.701 as enacted by conference committee substitute for senate substitute no. 2 for house committee substitute for house bills nos. 484, 199 & 72, eighty-eighth general assembly, first regular session, are repealed and fifty-three new sections enacted in lieu thereof, to be known as sections 34.140, 67.582, 72.419, 67.2100, 144.526, 190.050, 190.051, 190.053, 190.054, 190.092, 190.094, 190.100, 190.105, 190.108, 190.109, 190.111, 190.120, 190.142, 190.143, 190.160, 190.165, 190.171, 190.172, 190.175, 190.185, 190.196, 190.248, 190.525, 190.528, 190.531, 190.534, 190.537, 191.938, 292.606, 320.091, 320.094, 320.097, 320.098, 321.130, 321.190, 321.247, 321.300, 321.701, 321.703, 355.066, 650.390, 650.393, 650.396, 650.399, 650.402, 650.405, 650.408 and 650.411, to read as follows:

EXPLANATION — Matter enclosed in bold faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

34.140. 1. The commissioner of administration may require an inventory to be made when necessary of all removable equipment owned by the state.

2. The commissioner of administration shall have the power to transfer supplies from any department where they are not needed to any other department where they are needed and to direct that proper charges and credits be made on the inventories of the departments concerned.

3. The commissioner of administration may distribute surplus or unneeded supplies or property to volunteer fire protection associations, as defined in section 320.300, RSMo, to fire protection districts, to fire departments, **including any rural fire departments**, and to eligible donees, as that term is defined in connection with the federal surplus property program, in the same manner as provided for the distribution of federal surplus property. The commissioner of administration may distribute surplus or unneeded supplies or property to an organization registered as a 501(c)3 not-for-profit, public service corporation which provides training to fire departments, emergency medical technicians and police officers in search and recovery techniques, water rescue, ice rescue and watercraft operation in the same manner as provided for the distribution of federal surplus property.

4. The commissioner of administration may sell surplus or unneeded supplies or property which are not transferred to state agencies or distributed to eligible donees to the general public by auction, sealed bid.

5. A uniformed employee of the Missouri state highway patrol, with the approval of the superintendent, may purchase upon retirement, by reason of length of service or disability or by the member's next of kin in case of death, the service pistol, off-duty sidearm and badge carried by such member immediately prior to retirement. The purchase price for the service pistol, off-duty sidearm and badge shall be equal to the replacement cost thereof.

67.582. 1. The governing body of any county, except a county of the first class with a charter form of government with a population of greater than four hundred thousand inhabitants, **or the governing body of any city located within a county which has enacted a countywide sales tax for law enforcement** is hereby authorized to impose, by ordinance or order, a sales tax in the amount of up to one-half of one percent on all retail sales made in such county **or city** which are subject to taxation [under] **pursuant to** the provisions of sections 144.010 to 144.525, RSMo, for the purpose of providing law enforcement **or fire protection** services for such county **or city**. The tax authorized by this section shall be in addition to any and all other sales taxes allowed by law, except that no ordinance or order imposing a sales tax [under] **pursuant to** the provisions of this section shall be effective unless the governing body of the county **or city** submits to the voters of the county **or city**, at a county, **city** or state general, primary or special election, a proposal to authorize the governing body of the county **or city** to impose a tax.

2. The ballot of submission shall contain, but need not be limited to, the following language:

(1) If the proposal submitted involves only authorization to impose the tax authorized by this section the ballot shall contain substantially the following:

Shall the [county] **(insert county or city)** of (county's **or city's** name) impose a [countywide] **(insert countywide or citywide)** sales tax of (insert amount) for the purpose of providing law enforcement **or fire protection** services for the [county] **(insert county or city)**?

G Yes

G No

If you are in favor of the question, place an "X" in the box opposite "Yes". If you are opposed to the

question, place an "X" in the box opposite "No"; or

(2) If the proposal submitted involves authorization to enter into agreements to form a regional jail district and obligates the county **or city** to make payments from the tax authorized by this section the ballot shall contain substantially the following:

Shall the [county] (**insert county or city**) of (county's **or city's** name) be authorized to enter into agreements for the purpose of forming a regional jail district and obligating the [county] (**insert county or city**) to impose a [countywide] (**insert countywide or citywide**) sales tax of (insert amount) to fund dollars of the costs to construct a regional jail and to fund the costs to operate a regional jail, with any funds in excess of that necessary to construct and operate such jail to be used for law enforcement purposes?

Yes

No

If you are in favor of the question, place an "X" in the box opposite "Yes". If you are opposed to the question, place an "X" in the box opposite "No".

If a majority of the votes cast on the proposal by the qualified voters voting thereon are in favor of the proposal submitted pursuant to subdivision (1) of this subsection, then the ordinance or order and any amendments thereto shall be in effect on the first day of the second quarter immediately following the election approving the proposal. If the constitutionally required percentage of the voters voting thereon are in favor of the proposal submitted pursuant to subdivision (2) of this subsection, then the ordinance or order and any amendments thereto shall be in effect on the first day of the second quarter immediately following the election approving the proposal. If a proposal receives less than the required majority, then the governing body of the county **or city** shall have no power to impose the sales tax herein authorized unless and until the governing body of the county **or city** shall again have submitted another proposal to authorize the governing body of the county **or city** to impose the sales tax authorized by this section and such proposal is approved by the required majority of the qualified voters voting thereon. However, in no event shall a proposal pursuant to this section be submitted to the voters sooner than twelve months from the date of the last proposal pursuant to this section.

3. All revenue received by a county **or city** from the tax authorized [under] **pursuant to** the provisions of this section shall be deposited in a special trust fund and shall be used solely for providing law enforcement **or fire protection** services for such county **or city** for so long as the tax shall remain in effect. Revenue placed in the special trust fund may also be utilized for capital improvement projects for law enforcement facilities and for the payment of any interest and principal on bonds issued for said capital improvement projects.

4. Once the tax authorized by this section is abolished or is terminated by any means, all funds remaining in the special trust fund shall be used solely for providing law enforcement **or fire protection** services for the county **or city**. Any funds in such special trust fund which are not needed for current expenditures may be invested by the governing body in accordance with applicable laws relating to the investment of other county **or city** funds.

5. All sales taxes collected by the director of revenue [under] **pursuant to** this section on behalf of any county, less one percent for cost of collection which shall be deposited in the state's general revenue fund after payment of premiums for surety bonds as provided in section 32.087, RSMo, shall be deposited in a special trust fund, which is hereby created, to be known as the "County [Law Enforcement] **Public**

Safety Sales Tax Trust Fund". The moneys in the county [law enforcement] **public safety** sales tax trust fund shall not be deemed to be state funds and shall not be commingled with any funds of the state. The director of revenue shall keep accurate records of the amount of money in the trust and which was collected in each county imposing a sales tax [under] **pursuant to** this section, and the records shall be open to the inspection of officers of the county and the public. Not later than the tenth day of each month the director of revenue shall distribute all moneys deposited in the trust fund during the preceding month to the county which levied the tax; such funds shall be deposited with the county treasurer of each such county, and all expenditures of funds arising from the county [law enforcement] **public safety** sales tax trust fund shall be by an appropriation act to be enacted by the governing body of each such county. Expenditures may be made from the fund for any law enforcement **or fire protection** functions authorized in the ordinance or order adopted by the governing body submitting the [law enforcement] **public safety** tax to the voters.

6. All sales taxes collected by the director of revenue pursuant to this section on behalf of any city, less one percent for cost of collection which shall be deposited in the state's general revenue fund after payment of premiums for surety bonds as provided in section 32.087, RSMo, shall be deposited in a special trust fund, which is hereby created, to be known as the "City Public Safety Sales Tax Trust Fund". The moneys in the city public safety sales tax trust fund shall not be deemed to be state funds and shall not be commingled with any funds of the state. The director of revenue shall keep accurate records of the amount of money in the trust fund and from which city the amounts were collected, and the records shall be open to the inspection of officers of the city and the public. Not later than the tenth day of each month the director of revenue shall distribute all moneys deposited in the trust fund during the preceding month to the city which levied the tax; such funds shall be deposited with the city treasurer of each such city, and all expenditures of funds arising from the city public safety sales tax trust fund shall be by appropriation by the governing body of each such city. Expenditures may be made from the fund for any law enforcement or fire protection functions authorized in the ordinance or order adopted by the governing body submitting the public safety tax to the voters.

[6.] **7.** The director of revenue may authorize the state treasurer to make refunds from the amounts in the trust [fund] **funds created in this section** and credited to any county **or city** for erroneous payments and overpayments made, and may redeem dishonored checks and drafts deposited to the credit of such counties **or cities**. If any county **or city** abolishes the tax, the county **or city** shall notify the director of revenue of the action at least ninety days prior to the effective date of the repeal and the director of revenue may order retention in the **appropriate county or city** trust fund, for a period of one year, of two percent of the amount collected after receipt of such notice to cover possible refunds or overpayment of the tax and to redeem dishonored checks and drafts deposited to the credit of such accounts. After one year has elapsed after the effective date of abolition of the tax in such county **or city**, the director of revenue shall remit the balance in the account to the county **or city** and close the account of that county **or city**. The director of revenue shall notify each county **or city** of each instance of any amount refunded or any check redeemed from receipts due the county **or city**.

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

67.2100. 1. The governing body of any ambulance district or the governing body of any municipality having a municipal ambulance service may impose a sales tax in an amount of up to

one-fourth of one percent on all retail sales made in such ambulance district or municipality which are subject to taxation pursuant to the provisions of sections 144.010 to 144.525, RSMo. The tax authorized by this section shall be in addition to any and all other sales taxes allowed by law, except that no sales tax imposed pursuant to the provisions of this section shall be effective unless the governing body of the ambulance district or municipality submits to the voters of such ambulance district or municipality, at a county or state general, primary or special election, a proposal to authorize the governing body of the ambulance district or municipality to impose a tax.

2. The ballot of submission shall contain, but need not be limited to, the following language:

Shall (insert name of district or municipality) impose a sales tax of(insert rate of tax) for the purpose of providing revenues for the operation of the (insert ambulance district or municipal ambulance services)?

G YES

G NO

If a majority of the votes cast on the proposal by the qualified voters voting thereon are in favor of the proposal, then the sales tax authorized in this section shall be in effect. If a majority of the votes cast by the qualified voters voting are opposed to the proposal, then the governing body of the ambulance district or municipality shall not impose the sales tax authorized in this section unless and until the governing body of such ambulance district or municipality resubmits a proposal to authorize the governing body of the ambulance district or municipality to impose the sales tax authorized by this section and such proposal is approved by a majority of the qualified voters voting thereon.

3. All revenue received by an ambulance district or municipality from the tax authorized pursuant to the provisions of this section shall be deposited in a special trust fund and shall be used solely for the operation of the ambulance district or the municipal ambulance services.

72.419. 1. A fire protection district serving the area included within any annexation by a city located in a county of the first classification having a population of more than one hundred seventy thousand but less than two hundred thousand having a fire department, including simplified boundary changes, shall continue to provide fire protection services, including emergency medical services to such area. The annexing city shall pay annually to the fire protection district an amount equal to that which the fire protection district would have levied on all taxable property within the annexed area. Such annexed area shall not be subject to taxation for any purpose thereafter by the fire protection district except for bonded indebtedness by the fire protection district which existed prior to the annexation. The amount to be paid annually by the municipality to the fire protection district pursuant hereto shall be a sum equal to the annual assessed value multiplied by the annual tax rate as certified by the fire protection district to the municipality, including any portion of the tax created for emergency medical service provided by the district, per one hundred dollars of assessed value in such area. The tax rate so computed shall include any tax on bonded indebtedness incurred subsequent to such annexation, but shall not include any portion of the tax rate for bonded indebtedness incurred prior to such annexation. Notwithstanding any other provision of law to the contrary, the residents of an area annexed on or after August 28, 2001, may vote in all fire protection district elections and may be elected to

the fire protection district board of directors.

2. The fire protection district may approve or reject any proposal for the provision of fire protection and emergency medical services by such city.

144.526. In addition to the sales tax levied pursuant to sections 144.010 to 144.525 on sales of fireworks regulated by sections 320.106 to 320.161, RSMo, there shall be an additional sales tax in the amount of one percent levied on all sales of such fireworks which shall be distributed as provided in section 320.094, RSMo.

190.050. 1. After the ambulance district has been declared organized, the declaring county commission, except in counties of the second class having more than one hundred five thousand inhabitants located adjacent to a county of the first class having a charter form of government which has a population of over nine hundred thousand inhabitants, shall divide the district into six election districts as equal in population as possible, and shall by lot number the districts from one to six inclusive. The county commission shall cause an election to be held in the ambulance district within ninety days after the order establishing the ambulance district to elect ambulance district directors. Each voter shall vote for one director from the ambulance election district in which the voter resides. The directors elected from districts one and four shall serve for a term of one year, the directors elected from districts two and five shall serve for a term of two years, and the directors from districts three and six shall serve for a term of three years; thereafter, the terms of all directors shall be three years. All directors shall serve the term to which they were elected or appointed, and until their successors are elected and qualified, except in cases of resignation or disqualification. The county commission shall reapportion the ambulance districts within sixty days after the population of the county is reported to the governor for each decennial census of the United States. Notwithstanding any other provision of law, if the number of candidates for the office of director is no greater than the number of directors to be elected, no election shall be held, and the candidates shall assume the responsibilities of their offices at the same time and in the same manner as if they have been elected.

2. In all counties of the second class having more than one hundred five thousand inhabitants located adjacent to a county of the first class having a charter form of government which has a population of over nine hundred thousand inhabitants, the voters shall vote for six directors elected at large from within the district for a term of three years. Those directors holding office in any district in such a county on August 13, 1976, shall continue to hold office until the expiration of their terms, and their successors shall be elected from the district at large for a term of three years. In any district formed in such counties after August 13, 1976, the governing body of the county shall cause an election to be held in that district within ninety days after the order establishing the ambulance district to elect ambulance district directors. Each voter shall vote for six directors. The two candidates receiving the highest number of votes at such election shall be elected for a term of three years, the two candidates receiving the third and fourth highest number of votes shall be elected for a term of two years, the two candidates receiving the fifth and sixth highest number of votes shall be elected for a term of one year; thereafter, the term of all directors shall be three years.

3. A candidate for director of the ambulance district shall, at the time of filing, be a citizen of the United States, a qualified voter of the election district as provided in subsection 1 of this section, a resident of the [state for one year] **district for two years** next preceding the election, and shall be at least [twenty-one] **twenty-four** years of age. In an established district which is located within the jurisdiction of more than one election authority, the candidate shall file his **or her** declaration of candidacy with the

secretary of the board. In all other districts, a candidate shall file [his] a declaration of candidacy with the county clerk of the county in which he or she resides. A candidate shall file a statement under oath that he or she possesses the required qualifications. No candidate's name shall be printed on any official ballot unless the candidate has filed a written declaration of candidacy pursuant to subsection 5 of section 115.127, RSMo. If the time between the county commission's call for a special election and the date of the election is not sufficient to allow compliance with subsection 5 of section 115.127, RSMo, the county commission shall, at the time it calls the special election, set the closing date for filing declarations of candidacy.

190.051. 1. Notwithstanding the provisions of sections 190.050 and 190.052 to the contrary, upon a motion by the board of directors in districts where there are six-member boards, and upon approval by the voters in the district, the number of directors may be increased to seven with one board member running district wide, or decreased to five or three board members. The ballot to be used for the approval of the voters to increase or decrease the number of members on the board of directors of the ambulance district shall be substantially in the following form:

Shall the number of members of the board of directors of the (Insert name of district) Ambulance District be (increased to seven members/decreased to five members/decreased to three members)?

G YES

G NO

2. If a majority of the voters voting on a proposition to increase the number of board members to seven vote in favor of the proposition, then at the next election of board members after the voters vote to increase the number of directors, the voters shall select one person to serve in addition to the existing six directors as the member who shall run district wide.

3. If a majority of the voters voting on a proposition to decrease the number of board members vote in favor of the proposition, then the county clerk shall redraw the district into the resulting number of subdistricts with equal population bases and hold elections by subdistricts pursuant to section 190.050. Thereafter, members of the board shall be elected to serve terms of three years and until their successors are duly elected and qualified.

4. Members of the board of directors in office on the date of an election pursuant to this section to increase or decrease the number of members of the board of directors shall serve the term to which they were elected or appointed and until their successors are elected and qualified.

190.053. 1. Each member of an ambulance district board shall be subject to recall from office by the registered voters of the subdistrict from which he or she was elected. Proceedings may be commenced for the recall of any ambulance district board member by the filing of a notice of intention to circulate a recall petition pursuant to this section and section 190.054.

2. Proceedings may not be commenced against any member if, at the time of commencement, that member:

(1) Has not held office during his or her current term for a period of more than one hundred eighty days; or

(2) Has one hundred eighty days or less remaining in his or her term; or

(3) Has had a recall election determined in his or her favor within the current term of office.

3. The notice of intention to circulate a recall petition shall be served personally, or by certified mail, on the board member sought to be recalled. A copy thereof shall be filed, along

with an affidavit of the time and manner of service, with the election authority, as defined in chapter 115, RSMo. A separate notice shall be filed for each board member sought to be recalled and shall contain all of the following:

- (1) The name of the board member sought to be recalled;
- (2) A statement, not exceeding two hundred words in length, of the reasons for the proposed recall;
- (3) The names and business or residence addresses of at least one and not more than five proponents of the recall.

4. Within seven days after the filing of the notice of intention, the board member may file with the election authority a statement, not exceeding two hundred words in length, in answer to the statement of the proponents. If an answer is filed, the board member shall also serve a copy of it, personally or by certified mail, on one of the proponents named in the notice of intention. The statement and answer are intended solely for the information of the voters. No insufficiency in form or substance of such statements shall affect the validity of the election proceedings.

5. Before any signature may be affixed to a recall petition, the petition must bear all of the following:

- (1) A request that an election be called to elect a successor to the board member;
- (2) A copy of the notice of intention, including the statement of grounds for recall;
- (3) The answer of the board member sought to be recalled, if any. If the board member has not answered, the petition shall so state; and

(4) A place for each signer to affix his or her signature, printed name and residence address, including city or unincorporated community.

6. Each section of the petition, when submitted to the election authority, shall have attached to it an affidavit signed by the circulation of that section, setting forth all of the following:

- (1) The printed name of the affiant;
- (2) The residence address of the affiant;
- (3) That the affiant circulated that section and saw the appended signatures be written;
- (4) That according to the best information and belief of the affiant, each signature is the genuine signature of the person whose name it purports to be;
- (5) That the affiant is a registered voter of the subdistrict of the board member sought to be recalled; and
- (6) The dates between which all the signatures to the petition were obtained.

7. A recall petition shall be filed with the election authority not more than one hundred eighty days after the filing of the notice of intention.

8. The number of qualified signatures required in order to recall a board member shall be equal in number to at least twenty-five percent of the number of voters who voted in the most recent gubernatorial election in that subdistrict.

9. Within twenty days from the filing of the recall petition the election authority shall determine whether or not the petition was signed by the required number of qualified signatures. The election authority shall file with the petition a certificate showing the results of the examination. The authority shall give the proponents a copy of the certificate upon their request.

10. If the election authority certifies the petition to be insufficient, it may be

supplemented within ten days of the date of certificate by filing additional petition sections containing all of the information required by this section. Within ten days after the supplemental copies are filed, the election authority shall file with it a certificate stating whether or not the petition as supplemented is sufficient.

11. If the certificate shows that the petition as supplemented is insufficient, no action shall be taken on it; however, the petition shall remain on file.

190.054. 1. If the election authority finds the signatures on the petition described in section 190.053, together with the supplementary petition sections, if any, to be sufficient, it shall submit its certificate as to the sufficiency of the petition to the ambulance district board prior to its next meeting. The certificate shall contain:

- (1) The name of the member whose recall is sought;
- (2) The number of signatures required by law;
- (3) The total number of signatures on the petition; and
- (4) The number of valid signatures on the petition.

2. Following the ambulance district board's receipt of the certificate, the election authority shall order an election to be held on one of the election days specified in section 115.123, RSMo. The election shall be held not less than forty-five days nor more than one hundred twenty days after the ambulance district board receives the petition. Nominations pursuant to this section shall be made by filing a statement of candidacy with the election authority.

3. At any time prior to forty-two days before the election, the member sought to be recalled may offer his or her resignation. If his or her resignation is offered, the recall question shall be removed from the ballot and the office declared vacant. The member who resigned may not fill the vacancy, which shall be filled as provided by law.

4. The provisions of chapter 115, RSMo, governing the conduct of elections shall apply, where appropriate, to recall elections held pursuant to this section. The costs of the election shall be paid as provided in chapter 115, RSMo.

190.092. 1. [For purposes of this section, "first responder" shall be defined as a person who has successfully completed an emergency first response course meeting or exceeding the national curriculum of the United States Department of Transportation and any modifications to such curricula specified by the department through rules adopted pursuant to sections 190.001 to 190.180 and who provides emergency medical care through employment by, or in association with, an emergency medical response agency. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is promulgated under the authority of this chapter, shall become effective only if the agency has fully complied with all of the requirements of chapter 536, RSMo, including but not limited to, section 536.028, RSMo, if applicable, after August 28, 1998. All rulemaking authority delegated prior to August 28, 1998, is of no force and effect and repealed as of August 28, 1998, however nothing in this section shall be interpreted to repeal or affect the validity of any rule adopted and promulgated prior to August 28, 1998. If the provisions of section 536.028, RSMo, apply, the provisions of this section are nonseverable and if any of the powers vested with the general assembly pursuant to section 536.028, RSMo, to review, to delay the effective date, or to disapprove and annul a rule or portion of a rule are held unconstitutional or invalid, the purported grant of rulemaking authority and any rule so proposed and contained in the order of rulemaking shall be invalid and void, except that nothing in this section shall affect the validity of any rule adopted and promulgated prior to August 28, 1998.

2. Any county, municipality or fire protection district may establish a program to allow the use of automated external defibrillators by any person properly qualified who follows medical protocol for use of the device or member of a fire, police, ambulance service, emergency medical response agency or first responder agency provided that such person has completed a course certified by the American Red Cross or American Heart Association that includes cardiopulmonary resuscitation training and demonstrated proficiency in the use of such automated external defibrillators.

3.] A person or entity who acquires an automated external defibrillator shall ensure that:

(1) Expected defibrillator users receive training by the American Red Cross or American Heart Association in cardiopulmonary resuscitation and the use of automated external defibrillators, or an equivalent nationally recognized course in defibrillator use and cardiopulmonary resuscitation;

(2) The defibrillator is maintained and tested according to the manufacturer's operational guidelines;

(3) Any person who renders emergency care or treatment on a person in cardiac arrest by using an automated external defibrillator activates the emergency medical services system as soon as possible; and

(4) Any person **or entity** that owns an automated external defibrillator that is for use outside of a health care facility shall have a physician [provide medical protocol for the use of the device] **review and approve the clinical protocol for the use of the defibrillator, review and advise regarding the training and skill maintenance of the intended users of the defibrillator and assure proper review of all situations when the defibrillator is used to render emergency care .**

[4.] 2. Any person or entity who acquires an automated external defibrillator shall notify the emergency communications district or the ambulance dispatch center of the primary provider of emergency medical services where the automated external defibrillator is to be located.

[5.] 3. Any person who has had appropriate training, including a course in cardiopulmonary resuscitation, has demonstrated a proficiency in the use of an automated external defibrillator, and who gratuitously and in good faith renders emergency care when medically appropriate by use of or provision of an automated external defibrillator, without objection of the injured victim or victims thereof, shall not be held liable for any civil damages as a result of such care or treatment, where the person acts as an ordinarily reasonable, prudent person, or with regard to a health care professional, as a reasonably prudent and careful health care provider would have acted, under the same or similar circumstances. Nothing in this section shall affect any claims brought pursuant to chapter 537 or 538, RSMo.

190.094. In any county of the second classification containing part of a city which is located in four counties and any county bordering said county on the east and south and in any county of the third classification with a population of at least eight thousand four hundred but less than eight thousand five hundred inhabitants containing part of a lake of nine hundred fifty-eight miles of shoreline but less than one thousand miles of shoreline each ambulance, when in use as an ambulance, shall be staffed with a minimum of one emergency medical technician and one other crew member as set forth in rules adopted by the department. When transporting a patient, at least one licensed emergency medical technician, [mobile emergency medical technician,] registered nurse or physician shall be in attendance with the patient in the patient compartment at all times.

190.100. As used in sections 190.001 to 190.245, the following words and terms mean:

(1) "Advanced life support (ALS)", an advanced level of care as provided to the adult and pediatric patient such as defined by national curricula, and any modifications to that curricula specified in rules adopted by the department pursuant to sections 190.001 to 190.245;

(2) "Ambulance", any privately or publicly owned vehicle or craft that is specially designed, constructed or modified, staffed or equipped for, and is intended or used, maintained or operated for the transportation of persons who are sick, injured, wounded or otherwise incapacitated or helpless, or who require the presence of medical equipment being used on such individuals, but the term does not include any motor vehicle specially designed, constructed or converted for the regular transportation of persons who are disabled, handicapped, normally using a wheelchair, or otherwise not acutely ill, or emergency vehicles used within airports;

(3) "Ambulance service", a person or entity that provides emergency or nonemergency ambulance transportation and services, or both, in compliance with sections 190.001 to 190.245, and the rules promulgated by the department pursuant to sections 190.001 to 190.245;

(4) "Ambulance service area", a specific geographic area in which an ambulance service has been authorized to operate;

(5) "Basic life support (BLS)", a basic level of care, as provided to the adult and pediatric patient as defined by national curricula, and any modifications to that curricula specified in rules adopted by the department pursuant to sections 190.001 to 190.245;

(6) "Council", the state advisory council on emergency medical services;

(7) "Department", the department of health, state of Missouri;

(8) "Director", the director of the department of health or the director's duly authorized representative;

(9) "Dispatch agency", any person or organization that receives requests for emergency medical services from the public, by telephone or other means, and is responsible for dispatching emergency medical services;

(10) "Emergency", the sudden and, at the time, unexpected onset of a health condition that manifests itself by symptoms of sufficient severity that would lead a prudent layperson, possessing an average knowledge of health and medicine, to believe that the absence of immediate medical care could result in:

(a) Placing the person's health, or with respect to a pregnant woman, the health of the woman or her unborn child, in significant jeopardy;

(b) Serious impairment to a bodily function;

(c) Serious dysfunction of any bodily organ or part;

(d) Inadequately controlled pain;

(11) "Emergency medical dispatcher", a person who receives emergency calls from the public and has successfully completed an emergency medical dispatcher course, meeting or exceeding the national curriculum of the United States Department of Transportation and any modifications to such curricula specified by the department through rules adopted pursuant to sections 190.001 to 190.245;

(12) "Emergency medical response agency", any person that regularly provides a level of care that includes first response, basic life support or advanced life support, exclusive of patient transportation;

(13) "Emergency medical services for children (EMS-C) system", the arrangement of personnel, facilities and equipment for effective and coordinated delivery of pediatric emergency medical services required in prevention and management of incidents which occur as a result of a medical emergency or of an injury event, natural disaster or similar situation;

(14) "Emergency medical services (EMS) system", the arrangement of personnel, facilities and equipment for the effective and coordinated delivery of emergency medical services required in prevention

and management of incidents occurring as a result of an illness, injury, natural disaster or similar situation;

(15) "Emergency medical technician", a person licensed in emergency medical care in accordance with standards prescribed by sections 190.001 to 190.245, and by rules adopted by the department pursuant to sections 190.001 to 190.245;

(16) "Emergency medical technician-basic" or "EMT-B", a person who has successfully completed a course of instruction in basic life support as prescribed by the department and is licensed by the department in accordance with standards prescribed by sections 190.001 to 190.245 and rules adopted by the department pursuant to sections 190.001 to 190.245;

(17) "Emergency medical technician-paramedic" or "EMT-P", a person who has successfully completed a course of instruction in advanced life support care as prescribed by the department and is licensed by the department in accordance with sections 190.001 to 190.245 and rules adopted by the department pursuant to sections 190.001 to 190.245;

(18) "Emergency services", health care items and services furnished or required to screen and stabilize an emergency which may include, but shall not be limited to, health care services that are provided in a licensed hospital's emergency facility by an appropriate provider or by an ambulance service or emergency medical response agency;

(19) "First responder", a person who has successfully completed an emergency first response course meeting or exceeding the national curriculum of the United States Department of Transportation and any modifications to such curricula specified by the department through rules adopted pursuant to sections 190.001 to 190.245 and who provides emergency medical care through employment by or in association with an emergency medical response agency;

(20) "Health care facility", a hospital, nursing home, physician's office or other fixed location at which medical and health care services are performed;

(21) "Hospital", an establishment as defined in the hospital licensing law, subsection 2 of section 197.020, RSMo, or a hospital operated by the state;

(22) "Medical control", supervision provided by or under the direction of physicians to providers by written or verbal communications;

(23) "Medical direction", medical guidance and supervision provided by a physician to an emergency services provider or emergency medical services system;

(24) "Medical director", a physician licensed pursuant to chapter 334, RSMo, designated by the ambulance service or emergency medical response agency and who meets criteria specified by the department by rules pursuant to sections 190.001 to 190.245;

(25) "Memorandum of understanding", an agreement between an emergency medical response agency or dispatch agency and an ambulance service or services within whose territory the agency operates, in order to coordinate emergency medical services;

(26) "Patient", an individual who is sick, injured, wounded, diseased, or otherwise incapacitated or helpless, or dead, excluding deceased individuals being transported from or between private or public institutions, homes or cemeteries, and individuals declared dead prior to the time an ambulance is called for assistance;

(27) "Person", as used in these definitions and elsewhere in sections 190.001 to 190.245, any individual, firm, partnership, copartnership, joint venture, association, cooperative organization, corporation, municipal or private, and whether organized for profit or not, state, county, political subdivision, state department, commission, board, bureau or fraternal organization, estate, public trust, business or common

law trust, receiver, assignee for the benefit of creditors, trustee or trustee in bankruptcy, or any other service user or provider;

(28) "Physician", a person licensed as a physician pursuant to chapter 334, RSMo;

(29) "Political subdivision", any municipality, city, county, city not within a county, ambulance district or fire protection district located in this state which provides or has authority to provide ambulance service;

(30) "Professional organization", any organized group or association with an ongoing interest regarding emergency medical services. Such groups and associations could include those representing volunteers, labor, management, firefighters, EMT-B's, nurses, EMT-P's, physicians, communications specialists and instructors. Organizations could also represent the interests of ground ambulance services, air ambulance services, fire service organizations, law enforcement, hospitals, trauma centers, communication centers, pediatric services, labor unions and poison control services;

(31) **"Proof of financial responsibility", proof of ability to respond to damages for liability, on account of accidents occurring subsequent to the effective date of such proof, arising out of the ownership, maintenance or use of a motor vehicle in the financial amount set in rules promulgated by the department, but in no event less than the statutory minimum required for motor vehicles. Proof of financial responsibility shall be used as proof of self-insurance;**

(32) "Protocol", a predetermined, written medical care guideline, which may include standing orders;

[(32)] (33) "Regional EMS advisory committee", a committee formed within an emergency medical services (EMS) region to advise ambulance services, the state advisory council on EMS and the department;

[(33)] (34) "Stabilize", with respect to an emergency, the provision of such medical treatment as may be necessary to attempt to assure within reasonable medical probability that no material deterioration of an individual's medical condition is likely to result from or occur during ambulance transportation unless the likely benefits of such transportation outweigh the risks;

[(34)] (35) "State advisory council on emergency medical services", a committee formed to advise the department on policy affecting emergency medical service throughout the state;

[(35)] (36) "State EMS medical directors advisory committee", a subcommittee of the state advisory council on emergency medical services formed to advise the state advisory council on emergency medical services and the department on medical issues;

[(36)] (37) "Trauma", an injury to human tissues and organs resulting from the transfer of energy from the environment;

[(37)] (38) "Trauma care" includes injury prevention, triage, acute care and rehabilitative services for major single system or multisystem injuries that potentially require immediate medical or surgical intervention or treatment;

[(38)] (39) "Trauma center", a hospital that is currently designated as such by the department.

190.105. 1. No person, either as owner, agent or otherwise, shall furnish, operate, conduct, maintain, advertise, or otherwise be engaged in or profess to be engaged in the business or service of the transportation of patients by ambulance in the air, upon the streets, alleys, or any public way or place of the state of Missouri unless such person holds a currently valid license from the department for an ambulance service issued pursuant to the provisions of sections 190.001 to 190.245.

2. No ground ambulance shall be operated for ambulance purposes, and no individual shall drive,

attend or permit it to be operated for such purposes in the state of Missouri unless the ground ambulance is under the immediate supervision and direction of a person who is holding a currently valid Missouri license as an emergency medical technician [except that]. Nothing in this section shall be construed to mean that a duly registered nurse or a duly licensed physician be required to hold an emergency medical technician's license. Each ambulance service is responsible for assuring that any person driving its ambulance is competent in emergency vehicle operations and has a safe driving record. **Each ground ambulance shall be staffed with at least two licensed individuals when transporting a patient, except as provided in section 190.094.**

3. No license shall be required for an ambulance service, or for the attendant of an ambulance, which:

(1) Is rendering assistance in the case of an emergency, major catastrophe or any other unforeseen event or series of events which jeopardizes the ability of the local ambulance service to promptly respond to emergencies; or

(2) Is operated from a location or headquarters outside of Missouri in order to transport patients who are picked up beyond the limits of Missouri to locations within or outside of Missouri, but no such outside ambulance shall be used to pick up patients within Missouri for transportation to locations within Missouri, except as provided in subdivision (1) of this subsection.

4. The issuance of a license [under] **pursuant to** the provisions of sections 190.001 to 190.245 shall not be construed so as to authorize any person to provide ambulance services or to operate any ambulances without a franchise in any city not within a county or in a political subdivision in any county with a population of over nine hundred thousand inhabitants, or a franchise, contract or mutual-aid agreement in any other political subdivision which has enacted an ordinance making it unlawful to do so.

5. Sections 190.001 to 190.245 shall not preclude the adoption of any law, ordinance or regulation not in conflict with such sections by any city not within a county, or at least as strict as such sections by any county, municipality or political subdivision except that no such regulations or ordinances shall be adopted by a political subdivision in a county with a population of over nine hundred thousand inhabitants except by the county's governing body.

6. In a county with a population of over nine hundred thousand inhabitants, the governing body of the county shall set the standards for all ambulance services which shall comply with subsection 5 of this section. All such ambulance services must be licensed by the department. The governing body of such county shall not prohibit a licensed ambulance service from operating in the county, as long as the ambulance service meets county standards.

7. An ambulance service or vehicle when operated for the purpose of transporting persons who are sick, injured, or otherwise incapacitated shall not be treated as a common or contract carrier under the jurisdiction of the Missouri [public service commission] **division of motor carrier and railroad safety.**

8. Sections 190.001 to 190.245 shall not apply to, nor be construed to include, any motor vehicle used by an employer for the transportation of such employer's employees whose illness or injury occurs on private property, and not on a public highway or property, nor to any person operating such a motor vehicle.

9. A political subdivision that is authorized to operate a licensed ambulance service may establish, operate, maintain and manage its ambulance service, and select and contract with a licensed ambulance service. Any political subdivision may contract with a licensed ambulance service.

10. Except as provided in subsections 5 and 6, nothing in section 67.300, RSMo, or subsection

2 of section 190.109, shall be construed to authorize any municipality or county which is located within an ambulance district or a fire protection district that is authorized to provide ambulance service to promulgate laws, ordinances or regulations related to the provision of ambulance services. This provision shall not apply to any municipality or county which operates an ambulance service established prior to August 28, 1998.

11. Nothing in section 67.300, RSMo, or subsection 2 of section 190.109 shall be construed to authorize any municipality or county which is located within an ambulance district or a fire protection district that is authorized to provide ambulance service to operate an ambulance service without a franchise in an ambulance district or a fire protection district that is authorized to provide ambulance service which has enacted an ordinance making it unlawful to do so. This provision shall not apply to any municipality or county which operates an ambulance service established prior to August 28, 1998.

12. No provider of ambulance service within the state of Missouri which is licensed by the department to provide such service shall discriminate regarding treatment or transportation of emergency patients on the basis of race, sex, age, color, religion, sexual preference, national origin, ancestry, handicap, medical condition or ability to pay.

13. No provision of this section, other than subsections 5, 6, 10 and 11 of this section, is intended to limit or supersede the powers given to ambulance districts pursuant to this chapter or to fire protection districts pursuant to chapter 321, RSMo, or to counties, cities, towns and villages pursuant to chapter 67, RSMo.

14. Upon the sale or transfer of any ambulance service ownership, the owner of such service shall notify the department of the change in ownership within thirty days prior to the sale or transfer. After receipt of such notice, the department shall conduct an inspection of the ambulance service to verify compliance with the licensure standards of sections 190.100 to 190.245.

190.108. 1. The department shall, within a reasonable time after receipt of an application, cause such investigation as the department deems necessary to be made of the applicant for an air ambulance license.

2. The department shall have the authority and responsibility to license an air ambulance service in accordance with sections 190.001 to 190.245, and in accordance with rules adopted by the department pursuant to sections 190.001 to 190.245. The department may promulgate rules relating to the requirements for an air ambulance license including, but not limited to:

- (1) Medical control plans;
- (2) Medical director qualifications;
- (3) Air medical staff qualifications;
- (4) Response and operations standards to assure that the health and safety needs of the public are met;
- (5) Standards for air medical communications;
- (6) Criteria for compliance with licensure requirements;
- (7) Records and forms;
- (8) Equipment requirements;
- (9) Five-year license renewal;
- (10) Quality improvement committees; and
- (11) Response time, patient care and transportation standards.

3. Application for an air ambulance service license shall be made upon such forms as prescribed by the department in rules adopted pursuant to sections 190.001 to 190.245. The application form shall contain such information as the department deems necessary to make a determination as to whether the air ambulance service meets all the requirements of sections 190.001 to 190.245 and rules promulgated pursuant to sections 190.001 to 190.245.

4. Upon the sale or transfer of any ambulance service ownership, the owner of such service shall notify the department of the change in ownership within thirty days prior to the sale or transfer. After receipt of such notice, the department shall conduct an inspection of the ambulance service to verify compliance with the licensure standards of sections 190.100 to 190.245.

190.109. 1. The department shall, within a reasonable time after receipt of an application, cause such investigation as the department deems necessary to be made of the applicant for a ground ambulance license.

2. Any person that owned and operated a licensed ambulance on December 31, 1997, shall receive an ambulance service license from the department, unless suspended, revoked or terminated, for that ambulance service area which was, on December 31, 1997, described and filed with the department as the primary service area for its licensed ambulances on August 28, 1998, provided that the person makes application and adheres to the rules and regulations promulgated by the department pursuant to sections 190.001 to 190.245.

3. The department shall issue a new ground ambulance service license to an ambulance service that is not currently licensed by the department, or is currently licensed by the department and is seeking to expand its ambulance service area, except as provided in subsection 4 of this section, to be valid for a period of five years, unless suspended, revoked or terminated, when the director finds that the applicant meets the requirements of ambulance service licensure established pursuant to sections 190.100 to 190.245 and the rules adopted by the department pursuant to sections 190.001 to 190.245. In order to be considered for a new ambulance service license, an ambulance service shall submit to the department a letter of endorsement from each ambulance district or fire protection district that is [authorized] **licensed** to provide ambulance service, or from each municipality not within an ambulance district or fire protection district that is authorized to provide ambulance service, in which the ambulance service proposes to operate. If an ambulance service proposes to operate in unincorporated portions of a county not within an ambulance district or fire protection district that is authorized to provide ambulance service, in order to be considered for a new ambulance service license, the ambulance service shall submit to the department a letter of endorsement from the county. Any letter of endorsement **required pursuant to this section** shall verify that the political subdivision has conducted a public hearing regarding the endorsement and that the governing body of the political subdivision has adopted a resolution approving the endorsement. **The letter of endorsement shall affirmatively state that the proposed ambulance service:**

- (1) Will provide a benefit to public health that outweighs the associated costs;**
 - (2) Will maintain or enhance the public's access to ambulance services;**
 - (3) Will maintain or improve the public health and promote the continued development of the regional emergency medical service system;**
 - (4) Has demonstrated the appropriate expertise in the operation of ambulance services;**
- and**
- (5) Has demonstrated the financial resources necessary for the operation of the proposed**

ambulance service.

4. A contract between a political subdivision and a licensed ambulance service for the provision of ambulance services for that political subdivision shall expand, without further action by the department, the ambulance service area of the licensed ambulance service to include the jurisdictional boundaries of the political subdivision. The termination of the aforementioned contract shall result in a reduction of the licensed ambulance service's ambulance service area by removing the geographic area of the political subdivision from its ambulance service area.

5. The department shall renew a ground ambulance service license if the applicant meets the requirements established pursuant to sections 190.001 to 190.245, and the rules adopted by the department pursuant to sections 190.001 to 190.245.

6. The department shall promulgate rules relating to the requirements for a ground ambulance service license including, but not limited to:

- (1) Vehicle design, specification, operation and maintenance standards;
- (2) Equipment requirements;
- (3) Staffing requirements;
- (4) Five-year license renewal;
- (5) Records and forms;
- (6) Medical control plans;
- (7) Medical director qualifications;
- (8) Standards for medical communications;
- (9) Memorandums of understanding with emergency medical response agencies that provide advanced life support;
- (10) Quality improvement committees; and
- (11) Response time, patient care and transportation standards.

7. Application for a ground ambulance service license shall be made upon such forms as prescribed by the department in rules adopted pursuant to sections 190.001 to 190.245. The application form shall contain such information as the department deems necessary to make a determination as to whether the ground ambulance service meets all the requirements of sections 190.001 to 190.245 and rules promulgated pursuant to sections 190.001 to 190.245.

8. Any non profit, public benefit corporation that owned and operated a licensed ambulance service on December 31, 1997, and converts to a for profit corporation, limited liability company, partnership or related entity (the "New Entity") subsequent to December 31, 2000, be selling substantially all of its assets to such New Entity shall receive an ambulance service license from the department for the same service area, unless the license of the non profit, public benefit corporation was suspended, revoked or terminated prior to such sale, conversion or similar transaction, upon application of the New Entity to the department and adherence to the rules and regulations of the department promulgated pursuant to sections 190.001 to 190.245 as if the New Entity had operated on December 31, 1997.

190.111. 1. Notwithstanding any other provisions of law, the department may grant a temporary ambulance service license to the Firefighter's Association of Missouri to operate an ambulance service at the annual Missouri state fair provided that they meet the following requirements:

- (1) Have submitted a complete application upon such forms as prescribed by the**

department in rules adopted pursuant to sections 190.001 to 190.245;

(2) Have not been disciplined pursuant to sections 190.001 to 190.245 and the rules promulgated thereunder; and

(3) Meet all the requirements of rules promulgated pursuant to sections 190.001 to 190.245.

2. This temporary ambulance service license shall only authorize the licensee to provide ambulance service under the temporary requirements established by the department in the geographic area established by the department.

3. This temporary ambulance service license shall have an expiration date, as determined by the department.

190.120. 1. No ambulance service license shall be issued pursuant to sections 190.001 to 190.245, nor shall such license be valid after issuance, nor shall any ambulance be operated in Missouri unless there is at all times in force and effect insurance coverage [issued by an insurance company] **or proof of financial responsibility with adequate reserves maintained** for each and every ambulance owned or operated by or for the applicant or licensee[, or unless any city not within a county which owns or operates the license has at all times sufficient self-insurance coverage] to provide for the payment of damages in an amount as prescribed in regulation:

(1) For injury to or death of individuals in accidents resulting from any cause for which the owner of [said] **such** vehicle would be liable on account of liability imposed on him **or her** by law, regardless of whether the ambulance was being driven by the owner or the owner's agent; and

(2) For the loss of or damage to the property of another, including personal property, under like circumstances.

2. The insurance policy[, or in the case of a self-insured city not within a county, proof of self-insurance,] **or proof of financial responsibility** shall be submitted by all licensees required to provide such insurance pursuant to sections 190.001 to 190.245. The insurance policy, or proof of the existence of [self-insurance of a city not within a county,] **financial responsibility**, shall be submitted to the director, in such form as the director may specify, for the director's approval prior to the issuance of each ambulance service license.

3. Every insurance policy **or proof of financial responsibility document** required by the provisions of this section shall contain [or in the case of a self-insured city not within a county shall have] proof of a provision for a continuing liability thereunder to the full amount thereof, notwithstanding any recovery thereon; that the liability of the insurer shall not be affected by the insolvency or the bankruptcy of the assured; and that until the policy is revoked the insurance company or self-insured [city not within a county] **licensee or entity** will not be relieved from liability on account of nonpayment of premium, failure to renew license at the end of the year, or any act or omission of the named assured. Such policy of insurance or self-insurance shall be further conditioned for the payment of any judgments up to the limits of [said] **such** policy, recovered against any person other than the owner, the owner's agent or employee, who may operate the same with the consent of the owner.

4. Every insurance policy or self-insured [city not within a county] **licensee or entity** as required by the provisions of this section shall extend for the period to be covered by the license applied for and the insurer shall be obligated to give not less than thirty days' written notice to the director and to the insured before any cancellation or termination thereof earlier than its expiration date, and the cancellation or other termination of any such policy shall automatically revoke and terminate the licenses issued for the ambulance

service covered by such policy unless covered by another insurance policy in compliance with sections 190.001 to 190.245.

190.142. 1. The department shall, within a reasonable time after receipt of an application, cause such investigation as it deems necessary to be made of the applicant for an emergency medical technician's license. The director may authorize investigations into criminal records in other states for any applicant.

2. The department shall issue a license to all levels of emergency medical technicians, for a period of five years, if the applicant meets the requirements established pursuant to sections 190.001 to 190.245 and the rules adopted by the department pursuant to sections 190.001 to 190.245. The department may promulgate rules relating to the requirements for an emergency medical technician including but not limited to:

(1) Age requirements;

(2) Education and training requirements based on respective national curricula of the United States Department of Transportation and any modification to such curricula specified by the department through rules adopted pursuant to sections 190.001 to 190.245;

(3) Initial licensure testing requirements;

(4) Continuing education and relicensure requirements; and

(5) Ability to speak, read and write the English language.

3. Application for all levels of emergency medical technician license shall be made upon such forms as prescribed by the department in rules adopted pursuant to sections 190.001 to 190.245. The application form shall contain such information as the department deems necessary to make a determination as to whether the emergency medical technician meets all the requirements of sections 190.001 to 190.245 and rules promulgated pursuant to sections 190.001 to 190.245.

4. All levels of emergency medical technicians may perform only that patient care which is:

(1) Consistent with the training, education and experience of the particular emergency medical technician; and

(2) Ordered by a physician or set forth in protocols approved by the medical director.

5. No person shall hold themselves out as an emergency medical technician or provide the services of an emergency medical technician unless such person is licensed by the department.

[6. All patients transported in a supine position in a vehicle other than an ambulance shall receive an appropriate level of care. The department shall promulgate rules regarding the provisions of this section. This subsection shall only apply to vehicles transporting patients for a fee.]

190.143. 1. Notwithstanding any other provisions of law, the department may grant a temporary emergency medical technician license to all levels of emergency medical technicians who meet the following:

(1) Can demonstrate that they have, or will have, employment requiring an emergency medical technician license;

(2) Are not currently licensed as an emergency medical technician in Missouri and fingerprints need to be submitted to the Federal Bureau of Investigation to verify the existence or absence of a criminal history, or they are currently licensed and the license will expire before a verification can be completed of the existence or absence of a criminal history;

(3) Have submitted a complete application upon such forms as prescribed by the department in rules adopted pursuant to sections 190.001 to 190.245;

(4) Have not been disciplined pursuant to sections 190.001 to 190.245 and rules

promulgated pursuant to sections 190.001 to 190.245;

(5) Meet all the requirements of rules promulgated pursuant to sections 190.001 to 190.245.

2. A temporary emergency medical technician license shall only authorize the licensee to practice while under the immediate supervision of a licensed emergency medical technician-basic, emergency medical technician-paramedic, registered nurse or physician who is currently licensed, without restrictions, to practice in Missouri.

3. A temporary emergency medical technician license shall automatically expire either ninety days from the date of issuance or upon the issuance of a five-year emergency medical technician license.

190.160. The renewal of any license shall require conformance with sections 190.001 to 190.245 **and sections 190.525 to 190.537**, and rules adopted by the department pursuant to sections 190.001 to 190.245 **and sections 190.525 to 190.537**.

190.165. 1. The department may refuse to issue or deny renewal of any certificate, permit or license required pursuant to sections 190.100 to 190.245 for failure to comply with the provisions of [this act] **sections 190.100 to 190.245** or any lawful regulations promulgated by the department to implement its provisions as described in subsection 2 of this section. The department shall notify the applicant in writing of the reasons for the refusal and shall advise the applicant of his or her right to file a complaint with the administrative hearing commission as provided by chapter 621, RSMo.

2. The department may cause a complaint to be filed with the administrative hearing commission as provided by chapter 621, RSMo, against any holder of any certificate, permit or license required by sections 190.100 to 190.245 or any person who has failed to renew or has surrendered his or her certificate, permit or license for failure to comply with the provisions of sections 190.100 to 190.245 or any lawful regulations promulgated by the department to implement such sections. Those regulations shall be limited to the following:

(1) Use or unlawful possession of any controlled substance, as defined in chapter 195, RSMo, or alcoholic beverage to an extent that such use impairs a person's ability to perform the work of any activity licensed or regulated by sections 190.100 to 190.245;

(2) Being finally adjudicated and found guilty, or having entered a plea of guilty or nolo contendere, in a criminal prosecution under the laws of any state or of the United States, for any offense reasonably related to the qualifications, functions or duties of any activity licensed or regulated pursuant to sections 190.100 to 190.245, for any offense an essential element of which is fraud, dishonesty or an act of violence, or for any offense involving moral turpitude, whether or not sentence is imposed;

(3) Use of fraud, deception, misrepresentation or bribery in securing any certificate, permit or license issued pursuant to sections 190.100 to 190.245 or in obtaining permission to take any examination given or required pursuant to sections 190.100 to 190.245;

(4) Obtaining or attempting to obtain any fee, charge, tuition or other compensation by fraud, deception or misrepresentation;

(5) Incompetency, misconduct, gross negligence, fraud, misrepresentation or dishonesty in the performance of the functions or duties of any activity licensed or regulated by sections 190.100 to 190.245;

(6) Violation of, or assisting or enabling any person to violate, any provision of sections 190.100 to 190.245, or of any lawful rule or regulation adopted by the department pursuant to sections 190.100 to 190.245;

(7) Impersonation of any person holding a certificate, permit or license or allowing any person to use his or her certificate, permit, license or diploma from any school;

(8) Disciplinary action against the holder of a license or other right to practice any activity regulated by sections 190.100 to 190.245 granted by another state, territory, federal agency or country upon grounds for which revocation or suspension is authorized in this state;

(9) For an individual being finally adjudged insane or incompetent by a court of competent jurisdiction;

(10) Assisting or enabling any person to practice or offer to practice any activity licensed or regulated by sections 190.100 to 190.245 who is not licensed and currently eligible to practice pursuant to sections 190.100 to 190.245;

(11) Issuance of a certificate, permit or license based upon a material mistake of fact;

(12) Violation of any professional trust or confidence;

(13) Use of any advertisement or solicitation which is false, misleading or deceptive to the general public or persons to whom the advertisement or solicitation is primarily directed;

(14) Violation of the drug laws or rules and regulations of this state, any other state or the federal government[.];

(15) Refusal of any applicant or licensee to cooperate with the department of health during any investigation;

(16) Any conduct or practice which is or might be harmful or dangerous to the mental or physical health of a patient or the public;

(17) Gross negligence or repeated negligence in the performance of the functions or duties of any activity licensed by this chapter.

3. After the filing of such complaint, the proceedings shall be conducted in accordance with the provisions of chapter 621, RSMo. Upon a finding by the administrative hearing commission that the grounds, provided in subsection 2 of this section, for disciplinary action are met, the department may, singly or in combination, censure or place the person named in the complaint on probation on such terms and conditions as the department deems appropriate for a period not to exceed five years, or may suspend, for a period not to exceed three years, or revoke the license, certificate or permit.

4. An individual whose license has been revoked shall wait one year from the date of revocation to apply for relicensure. Relicensure shall be at the discretion of the department after compliance with all the requirements of sections 190.100 to 190.245 relative to the licensing of an applicant for the first time. **Any individual whose license has been revoked twice within a ten-year period shall not be eligible for relicensure.**

5. The department may notify the proper licensing authority of any other state in which the person whose license was suspended or revoked was also licensed of the suspension or revocation.

6. Any person, organization, association or corporation who reports or provides information to the department pursuant to the provisions of sections 190.100 to 190.245 and who does so in good faith shall not be subject to an action for civil damages as a result thereof.

7. The department of health may suspend any certificate, permit or license required pursuant to sections 190.100 to 190.245 simultaneously with the filing of the complaint with the administrative hearing commission as set forth in subsection 2 of this section, if the department finds that there is an imminent threat to the public health. The notice of suspension shall include the basis of the suspension and notice of the right to appeal such suspension. The licensee may appeal the decision to suspend the license, certificate or

permit to the department. The appeal shall be filed within ten days from the date of the filing of the complaint. A hearing shall be conducted by the department within ten days from the date the appeal is filed. The suspension shall continue in effect until the conclusion of the proceedings, including review thereof, unless sooner withdrawn by the department, dissolved by a court of competent jurisdiction or stayed by the administrative hearing commission.

190.171. Any person aggrieved by an official action of the department of health affecting the licensed status of a person [under] **pursuant to** the provisions of sections 190.001 to 190.245 **and sections 190.525 to 190.537**, including the refusal to grant, the grant, the revocation, the suspension, or the failure to renew a license, may seek a determination thereon by the administrative hearing commission pursuant to the provisions of section 621.045, RSMo, and it shall not be a condition to such determination that the person aggrieved seek a reconsideration, a rehearing, or exhaust any other procedure within the department of health or the department of social services.

190.172. Notwithstanding the provisions of subdivision (3) of subsection 3 of section 621.045, RSMo, to the contrary, if no contested case has been filed against the licensee, the agency shall submit a copy of the settlement agreement signed by all of the parties within fifteen days after signature to the administrative hearing commission for determination that the facts agreed to by the parties to the settlement constitute grounds for denying or disciplining the license of the licensee. Any person is directly harmed by the specific conduct for which the discipline is sought may submit a written impact statement to the administrative hearing commission for consideration in connection with the commission's review of the settlement agreement.

190.175. 1. Each ambulance service licensee or emergency medical response agency licensee shall maintain accurate records, which contain information concerning the care and, if applicable, the transportation of each patient.

2. Records will be retained by the ambulance service licensees and emergency medical response agency licensees for five years, readily available for inspection by the department, notwithstanding transfer, sale or discontinuance of the ambulance services or business.

3. [An ambulance] **A patient care** report, approved by the department, shall be completed for each ambulance run on which are entered pertinent remarks by the emergency medical technician, **registered nurse or physician** and such other items as specified by rules promulgated by the department.

4. A written or electronic patient care document shall be completed and given to the ambulance service personnel by the health care facility when a patient is transferred between health care facilities. Such patient care record shall contain such information pertinent to the continued care of the patient as well as the health and safety of the ambulance service personnel during the transport. Nothing in this section shall be construed as to limit the reporting requirements established in federal law relating to the transfer of patients between health care facilities.

[4.] **5.** Such records shall be available for inspection by the department at any reasonable time during business hours.

190.185. The department shall adopt, amend, promulgate, and enforce such rules, regulations and standards with respect to the provisions of this chapter as may be designed to further the accomplishment of the purpose of this law in promoting state-of-the-art emergency medical services in the interest of public health, safety and welfare. When promulgating such rules and regulations, the department shall consider

the recommendations of the state advisory council on emergency medical services. No rule or portion of a rule promulgated pursuant to the authority of sections 190.001 to 190.245, or sections **190.525 to 190.537**, shall become effective unless it has been promulgated pursuant to the provisions of chapter 536, RSMo.

190.196. 1. No employer shall knowingly employ or permit any employee to perform any services for which a license, certificate or other authorization is required by sections 190.001 to 190.245, or by rules adopted pursuant to sections 190.001 to 190.245, unless and until the person so employed possesses all licenses, certificates or authorizations that are required.

2. Any person or entity that employs or supervises a person's activities as a first responder [or], emergency medical dispatcher, **EMT-basic, EMT-paramedic, registered nurse or physician** shall cooperate with the department's efforts to monitor and enforce compliance by those individuals subject to the requirements of sections 190.001 to 190.245.

3. **Any person or entity who employs individuals licensed by the department pursuant to sections 190.001 to 190.245 shall report to the department within seventy-two hours of their having knowledge of any charges filed against a licensee in their employ for possible criminal action involving the following felony offenses:**

- (1) Child abuse or sexual abuse of a child;
- (2) Crimes of violence; or
- (3) Rape or sexual abuse.

4. Any licensee who has charges filed against him or her for the felony offenses in subsection 3 of this section shall report such an occurrence to the department within seventy-two hours of the charges being filed.

5. The department will monitor these reports for possible licensure action authorized pursuant to section 190.165.

190.248. 1. All investigations conducted in response to allegations of violations of sections 190.100 to 190.245 shall be completed within six months of receipt of the allegation.

2. In the course of an investigation the department shall have access to all records directly related to the alleged violations from persons or entities licensed pursuant to this chapter or chapter 197 or 198, RSMo.

3. Any department of health investigations that involve other administrative or law enforcement agencies shall be completed within six months of notification and final determination by such administrative or law enforcement agencies.

190.525. As used in sections 190.525 to 190.537, the following terms mean:

(1) "Department", the department of health;

(2) "Director", the director of the department of health or the director's duly authorized representative;

(3) "Passenger", an individual needing transportation in a supine position who does not require medical monitoring, observation, aid, care or treatment during transportation, with the exception of self-administered oxygen as ordered by a physician during transportation;

(4) "Patient", an individual who is sick, injured, wounded, diseased, or otherwise incapacitated or helpless, and who may require medical monitoring, medical observation, aid, care or treatment during transportation, with the exception of self-administered oxygen as ordered by a physician;

(5) "Person", any individual, firm, partnership, copartnership, joint venture, association, cooperative organization, corporation, municipal or private, and whether organized for profit or not, state, county, political subdivision, state department, commission, board, bureau or fraternal organization, estate, public trust, business or common law trust, receiver, assignee for the benefit of creditors, trustee or trustee in bankruptcy, or any other service user or provider;

(6) "Stretcher van", any vehicle other than an ambulance designed and equipped to transport passengers in a supine position. No such vehicle shall be used to provide medical services;

(7) "Stretcher van service", any person or agency that provides stretcher van transportation to passengers who are confined to stretchers and whose conditions are such that they do not need and are not likely to need medical attention during transportation.

190.528. 1. No person, either as owner, agent or otherwise, shall furnish, operate, conduct, maintain, advertise, or otherwise be engaged in or profess to be engaged in the business or service of the transportation of passengers by stretcher van upon the streets, alleys, or any public way or place of the state of Missouri unless such person holds a currently valid license from the department for a stretcher van service issued pursuant to the provision of section 190.525 to 190.537 notwithstanding any provisions of chapter 390 or 622, RSMo, to the contrary.

2. Subsection 1 of this section shall not preclude any political subdivision that is authorized to operate a licensed ambulance service from adopting any law, ordinance or regulation governing the operation of stretcher vans that is at least as strict as the minimum state standards, except that no such regulations or ordinances shall be adopted by a political subdivision in a county with a population of over nine hundred thousand inhabitants except by the county's governing body and no such regulations or ordinances shall prohibit stretcher van services that were legally picking up passengers within a political subdivision prior to January 1, 2001, from continuing to operate within that political subdivision and no political subdivision which did not regulate or prohibit stretcher van services as of January 1, 2001, shall implement unreasonable regulations or ordinances to prevent the establishment and operation of such services.

3. In a county with a population of over nine hundred thousand inhabitants, the governing body of the county shall set reasonable standards for all stretcher van services which shall comply with subsection 2 of this section. All such stretcher van services must be licensed by the department. The governing body of such county shall not prohibit a licensed stretcher van service from operating in the county, as long as the stretcher van service meets county standards.

4. Nothing shall preclude the enforcement of any laws, ordinances or regulations of any political subdivision authorized to operate a licensed ambulance service that were in effect prior to August 28, 2001.

5. Stretcher van services may transport passengers.

6. A stretcher van shall be staffed by at least two individuals when transporting passengers.

7. The crew of the stretcher van is required to immediately contact the appropriate ground ambulance service if a passenger's condition deteriorates.

8. Stretcher van services shall not transport patients, persons currently admitted to a hospital or persons being transported to a hospital for admission or emergency treatment.

9. The department of health shall promulgate regulations, including but not limited to adequate insurance, on-board equipment, vehicle staffing, vehicle maintenance, vehicle specifications, vehicle communications, passenger safety and records and reports.

10. The department of health shall issue service licenses for a period of no more than five years for each service meeting the established rules.

11. Application for a stretcher van license shall be made upon such forms as prescribed by the department in rules adopted pursuant to sections 190.525 to 190.537. The application form shall contain such information as the department deems necessary to make a determination as to whether the stretcher van agency meets all the requirements of sections 190.525 to 190.537 and rules promulgated pursuant to sections 190.525 to 190.537. The department shall conduct an inspection of the stretcher van service to verify compliance with the licensure standards of sections 190.525 to 190.537.

12. Upon the sale or transfer of any stretcher van service ownership, the owner of the stretcher van service shall notify the department of the change in ownership within thirty days prior to the sale or transfer. The department shall conduct an inspection of the stretcher van service to verify compliance with the licensure standards of sections 190.525 to 190.537.

13. Ambulance services licensed pursuant to this chapter or any rules promulgated by the department of health pursuant to this chapter may provide stretcher van and wheel chair transportation services pursuant to sections 190.525 to 190.537.

190.531. 1. The department may refuse to issue or deny renewal of any license required pursuant to sections 190.525 to 190.537 for failure to comply with the provisions of sections 190.525 to 190.537 or any lawful regulations promulgated by the department to implement the provisions of sections 190.525 to 190.537. The department shall notify the applicant in writing of the reasons for the refusal and shall advise the applicant of his or her right to file a complaint with the administrative hearing commission as provided by chapter 621, RSMo.

2. The department may cause a complaint to be filed with the administrative hearing commission as provided by chapter 621, RSMo, against any holder of any license required by sections 190.525 to 190.537 or any person who has failed to renew or has surrendered his or her license for failure to comply with the provisions of sections 190.525 to 190.537 or any lawful regulations promulgated by the department to implement such sections. Those regulations shall be limited to the following:

(1) Use or unlawful possession of any controlled substance, as defined in chapter 195, RSMo, or alcoholic beverage to an extent that such use impairs a person's ability to perform the work of any activity licensed or regulated by sections 190.525 to 190.537;

(2) Being finally adjudicated and found guilty, or having entered a plea of guilty or nolo contendere, in a criminal prosecution pursuant to the laws of any state or of the United States, for any offense reasonably related to the qualifications, functions or duties of any activity licensed or regulated pursuant to sections 190.525 to 190.537, for any offense an essential element of which is fraud, dishonesty or an act of violence, or for any offense involving moral turpitude, whether or not sentence is imposed;

(3) Use of fraud, deception, misrepresentation or bribery in securing any certificate, permit or license issued pursuant to sections 190.525 to 190.537 or in obtaining permission to take any examination given or required pursuant to sections 190.537 to 190.540;

(4) Obtaining or attempting to obtain any fee, charge, tuition or other compensation by fraud, deception or misrepresentation;

(5) Incompetency, misconduct, gross negligence, fraud, misrepresentation or dishonesty in the performance of the functions or duties of any activity licensed or regulated by sections 190.525 to 190.537;

(6) Violation of, or assisting or enabling any person to violate, any provision of sections 190.525 to 190.537, or of any lawful rule or regulation adopted by the department pursuant to sections 190.525 to 190.537;

(7) Impersonation of any person holding a license or allowing any person to use his or her license;

(8) Disciplinary action against the holder of a license or other right to practice any activity regulated by sections 190.525 to 190.537 granted by another state, territory, federal agency or country upon grounds for which revocation or suspension is authorized in this state;

(9) For an individual, being finally adjudged insane or incompetent by a court of competent jurisdiction;

(10) Issuance of a license based upon a material mistake of fact;

(11) Violation of any professional trust or confidence;

(12) Use of any advertisement or solicitation which is false, misleading or deceptive to the general public or persons to whom the advertisement or solicitation is primarily directed;

(13) Violation of the drug laws or rules and regulations of this state, any other state or the federal government;

(14) Refusal of any applicant or licensee, to cooperate with the department of health during any investigation;

(15) Any conduct or practice which is or might be harmful or dangerous to the mental or physical health of a patient or the public;

(16) Gross negligence or repeated negligence in the performance of the functions or duties of any activity licensed by this chapter.

3. After the filing of such complaint, the proceedings shall be conducted in accordance with the provisions of chapter 621, RSMo. Upon a finding by the administrative hearing commission that the grounds, as provided in subsection 2 of this section, for disciplinary action are met, the department may, singly or in combination, censure or place the person named in the complaint on probation on such terms and conditions as the department deems appropriate for a period not to exceed five years, or may suspend, for a period not to exceed three years, or revoke the license.

4. An individual whose license has been revoked shall wait one year from the date of revocation to apply for relicensure. Relicensure shall be at the discretion of the department after compliance with all the requirements of sections 190.525 to 190.537 relative to the licensing of an applicant for the first time.

5. The department may notify the proper licensing authority of any other state in which the person whose license was suspended or revoked was also licensed, of the suspension or revocation.

6. Any person, organization, association or corporation who reports or provides information to the department pursuant to the provisions of sections 190.525 to 190.537 and who

does so in good faith and without negligence shall not be subject to an action for civil damages as a result thereof.

7. The department of health may suspend any license required pursuant to sections 190.525 to 190.537 simultaneously with the filing of the complaint with the administrative hearing commission as set forth in subsection 2 of this section, if the department finds that there is an imminent threat to the public health. The notice of suspension shall include the basis of the suspension and notice of the right to appeal such suspension. The licensee may appeal the decision to suspend the license to the department. The appeal shall be filed within ten days from the date of the filing of the complaint. A hearing shall be conducted by the department within ten days from the date the appeal is filed. The suspension shall continue in effect until the conclusion of the proceedings, including review thereof, unless sooner withdrawn by the department, dissolved by a court of competent jurisdiction or stayed by the administrative hearing commission.

190.534. 1. Any person violating, or failing to comply with, the provisions of section 190.525 to 190.537 is guilty of a class B misdemeanor.

2. Each day that any violation of, or failure to comply with, sections 190.525 to 190.537 is committed or permitted to continue shall constitute a separate and distinct offense, and shall be punishable as a separate offense pursuant to this section; but the court may, in appropriate cases, stay the cumulation of penalties.

3. The attorney general shall have concurrent jurisdiction with any and all prosecuting attorneys to prosecute persons in violation of sections 190.525 to 190.537, and the attorney general or prosecuting attorney may institute injunctive proceedings against any person operating in violation of sections 190.525 to 190.537.

190.537. No rule or portion of a rule promulgated pursuant to the authority of sections 190.525 to 190.537 shall become effective unless it has been promulgated pursuant to chapter 536, RSMo.

191.938. 1. There is hereby established an "Automated External Defibrillator Advisory Committee". The committee shall advise the department of health, the office of administration and the general assembly on the advisability of placing automated external defibrillators (AEDs) in public buildings, especially in public buildings owned by the state of Missouri or housing employees of the state of Missouri with special consideration to state office buildings accessible to the public.

2. The committee shall issue an initial report no later than June 1, 2002, and a final report no later than December 31, 2002, to the department of health, the office of administration and the governor's office. The issues to be addressed in the report shall include, but not be limited to:

(1) The advisability of placing AEDs in public buildings and the determination of the criteria as to which public buildings should have AEDs and how such AED placement should be accomplished;

(2) Projections of the cost of the purchase, placement and maintenance of any recommended AED placement;

(3) Discussion of the need for, and cost of, training personnel in the use of AEDs and in cardiopulmonary resuscitation; and

(4) The integration of AEDs with existing emergency services.

3. The committee shall be composed of the following members appointed by the director of the department of health:

- (1) A representative of the department of health;**
- (2) A representative of the division of facilities management in the office of administration;**
- (3) A representative of the American Red Cross;**
- (4) A representative of the American Heart Association; and**
- (5) A physician who has experience in the emergency care of patients.**

4. The department of health member shall be the chair of the first meeting of the committee. At the first meeting, the committee shall elect a chairperson from its membership. The committee shall meet at the call of the chairperson, but not less than four times a year.

5. The department of health shall provide technical and administrative support services as required by the committee. The office of administration shall provide technical support to the committee in the form of information and research on the number, size, use and occupancy of buildings in which employees of the state of Missouri work.

6. Members of the committee shall receive no compensation for their services as members, but shall be reimbursed for expenses incurred as a result of their duties as members of the committee.

7. The committee shall adopt written bylaws to govern its activities.

8. The automated external defibrillator advisory committee shall be terminated on June 1, 2003.

292.606. 1. Fees shall be collected for a period of [ten] **twenty** years from August 28, 1992. [The commission shall review the adequacy of the fees imposed in this section and shall present its assessment to affected departments and the respective committees of jurisdiction of the house and senate before December 1, 1994.]

2. (1) Any employer required to report under subsection 1 of section 292.605, except local governments and family-owned farm operations shall submit an annual fee to the commission of one hundred dollars along with the Tier II form. Owners or operators of petroleum retail facilities shall pay a fee of no more than fifty dollars for each such facility. Any person, firm or corporation selling, delivering or transporting petroleum or petroleum products and whose primary business deals with petroleum products or who is covered by the provisions of chapter 323, RSMo, if such person, firm or corporation is paying fees under the provisions of the federal hazardous materials transportation registration and fee assessment program, shall deduct such federal fees from those fees owed to the state under the provisions of this subsection. If the federal fees exceed or are equal to what would otherwise be owed under this subsection, such employer shall not be liable for state fees under this subsection. In relation to petroleum products "primary business" shall mean that the person, firm or corporation shall earn more than fifty percent of hazardous chemical revenues from the sale, delivery or transport of petroleum products. For the purpose of calculating fees, all grades of gasoline are considered to be one product, all grades of heating oils, diesel fuels, kerosenes, naphthas, aviation turbine fuel, and all other heavy distillate products except for grades of gasoline, are considered to be one product, and all varieties of motor lubricating oil are considered to be one product. For the purposes of this section "facility" shall mean all buildings, equipment, structures and other stationary items that are located on a single site or on contiguous or adjacent sites and which are owned or operated by the same person. If more than three hazardous substances or mixtures

are reported on the Tier II form, the employer shall submit an additional twenty-dollar fee for each hazardous substance or mixture. Fees collected under this subdivision shall be for each hazardous chemical on hand at any one time in excess of ten thousand pounds or for extremely hazardous substances on hand at any one time in excess of five hundred pounds or the threshold planning quantity, whichever is less, or for explosives or blasting agents on hand at any one time in excess of one hundred pounds. However, no employer shall pay more than ten thousand dollars per year in fees. Except moneys acquired through litigation shall not apply to this cap;

(2) Employers engaged in transporting hazardous materials by pipeline except local gas distribution companies regulated by the Missouri public service commission shall pay to the commission a fee of two hundred fifty dollars for each county in which they operate;

(3) Payment of fees is due each year by March first. A late fee of ten percent of the total owed, plus one percent per month of the total, may be assessed by the commission;

(4) If, on March first of each year, fees collected under this section and natural resources damages made available pursuant to section 640.235, RSMo, exceed one million dollars, any excess over one million dollars shall be proportionately credited to fees payable in the succeeding year by each employer who was required to pay a fee and who did pay a fee in the year in which the excess occurred. The limit of one million dollars contained herein shall be reviewed by the commission concurrent with the review of fees as required in subsection 1 of this section.

3. Local emergency planning committees receiving funds under section 292.604 shall coordinate with the commission and the department in chemical emergency planning, training, preparedness, and response activities. Local emergency planning committees receiving funds under section 260.394, RSMo, sections 292.602, 292.604, 292.605, 292.606, 292.615 and section 640.235, RSMo, shall provide to the commission an annual report of expenditures and activities.

4. Fees collected by the department and all funds provided to local emergency planning committees shall be used for chemical emergency preparedness purposes as outlined in sections 292.600 to 292.625 and the federal act, including contingency planning for chemical releases; exercising, evaluating, and distributing plans, providing training related to chemical emergency preparedness and prevention of chemical accidents; identifying facilities required to report; processing the information submitted by facilities and making it available to the public; receiving and handling emergency notifications of chemical releases; operating a local emergency planning committee; and providing public notice of chemical preparedness activities. Local emergency planning committees receiving funds under this section may combine such funds with other local emergency planning committees to further the purposes of sections 292.600 to 292.625, or the federal act.

5. The commission shall establish criteria and guidance on how funds received by local emergency planning committees may be used.

320.091. There shall be no cause of action against any fire protection district, volunteer fire protection association, or any fire department of any political subdivision which donates [used personal protection] equipment [and] **used to suppress fire or** fire protection clothing to another department, association or district if **the following conditions are met:**

(1) Such equipment is approved by the state fire marshal or [his] **the state fire marshal's** designee;

(2) **Motor vehicles so donated must pass a safety inspection by the Missouri state highway patrol;**

(3) The receiving agency demonstrates to the state fire marshal's office that the equipment received works properly; and

(4) The donor agency informs the receiving agency in writing of any defects in the equipment about which it knows.

This immunity shall apply only to causes of action directly related to the equipment mentioned [herein] **in this section.**

320.094. 1. The state treasurer shall annually transfer an amount prescribed in subsection 2 of this section out of the state revenues derived from premium taxes levied on insurance companies pursuant to sections 148.310 to 148.461, RSMo, which are deposited by the director of revenue in the general revenue fund pursuant to section 148.330, RSMo, **and state revenues derived from the portion of sales tax levied pursuant to section 144.526, RSMo, on sales of fireworks regulated by sections 320.106 to 320.161,** in a fund hereby created in the state treasury, to be known as the "Fire Education Fund". Any interest earned from investment of moneys in the fund shall be credited to the fund. The state treasurer shall administer the fund, and the moneys in such fund shall be used solely as prescribed in this section. Notwithstanding the provisions of section 33.080, RSMo, to the contrary, moneys in the fire education fund at the end of any biennium shall not be transferred to the credit of the general revenue fund.

2. Beginning July 1, [1998, three] **2002, five-tenths of one** percent of the amount of premium taxes collected in the immediately preceding fiscal year pursuant to sections 148.310 to 148.461, RSMo, which are deposited in the general revenue fund [that exceeds the amount of premium taxes which were deposited in the general revenue fund in the 1997 fiscal year] shall be transferred from the general revenue fund to the credit of the fire education fund. [At the end of each fiscal year, the commissioner of administration shall determine the amount transferred to the credit of the fire education fund in each fiscal year by computing the premium taxes deposited in the general revenue fund in the prior fiscal year and comparing such amount to the amount of premium taxes deposited in the general revenue fund in the 1997 fiscal year.] An amount equal to [three] **five-tenths of one** percent [of the increase computed pursuant to this section] shall be transferred by the state treasurer to the credit of the fire education fund; however, such transfer in any fiscal year shall not exceed one million five hundred thousand dollars; **provided, however, that each fiscal year fifty-five percent of the money transferred to the fire education fund shall be utilized for fire education. Twenty-five percent of the money transferred shall be deposited into the fire district equipment fund, a subaccount of the fire education fund pursuant to section 320.097.**

3. **Beginning July 1, 2002, all state revenues derived from the portion of sales tax levied pursuant to section 144.526, RSMo, on sales of fireworks regulated by sections 320.106 to 320.161 shall be transferred from the general revenue fund to the credit of the fire education fund established in subsection 1 of this section. The commissioner of administration shall make such transfer at the end of each fiscal year.**

4. There is hereby established a special trust fund, to be known as the "Missouri Fire Education Trust Fund", which shall consist of all moneys transferred to the fund from the fire education fund pursuant to this subsection and any earnings resulting from the investment of moneys in the fund. Each fiscal year, an amount equal to [forty] **twenty** percent of the moneys transferred to the fire education fund shall be transferred by the state treasurer to the credit of the Missouri fire education trust fund. The fund shall be administered by a board of trustees, consisting of the state treasurer, two members of the senate appointed

by the president pro tem of the senate, two members of the house of representatives appointed by the speaker of the house, and two members appointed by the governor with the advice and consent of the senate. Any member appointed due to such person's membership in the senate or house of representatives shall serve only as long as such person holds the office referenced in this section. The state treasurer shall invest moneys in the fund in a manner as provided by law. Subject to appropriations, moneys in the fund shall be used solely for the purposes described in this section, but such appropriations shall be made only if the board recommends to the general assembly that such moneys are needed in that fiscal year to adequately fund the activities described in this section. Moneys shall accumulate in the trust fund until the earnings from investment of moneys in the fund can adequately support the activities described in this section, as determined by the board. At such time, the board may recommend that the general assembly adjust or eliminate the funding mechanism described in this section. Notwithstanding the provisions of section 33.080, RSMo, to the contrary, moneys in the Missouri fire education trust fund at the end of any biennium shall not be transferred to the credit of the general revenue fund.

[4.] **5.** The moneys in the fire education fund, after any distribution pursuant to subsection 3 of this section, shall be distributed to the University of Missouri Fire & Rescue Training Institute and the institute shall use the moneys received [under] **pursuant to** this subsection to coordinate education needs in cooperation with community colleges, colleges, regional training facilities, and universities of this state and shall provide training and continuing education to firefighters in this state relating to fire department operations and the personal safety of firefighters while performing fire department activities. Programs and activities funded [under] **pursuant to** this subsection must be approved by the Missouri fire education commission established in subsection 5 of this section. These funds shall primarily be used to provide field education throughout the state, with not more than two percent of funds [under] **pursuant to** this subsection expended on administrative costs.

[5.] **6.** There is established the "Missouri Fire Education Commission", to be domiciled in the division of fire safety within the department of public safety. The commission shall be composed of five members appointed by the governor with the advice and consent of the senate, consisting of one firefighter serving as a volunteer of a volunteer fire protection association, one full-time firefighter employed by a [recognized] fire department or fire protection district, one firefighter training officer, one person serving as the chief of a volunteer fire protection association, and one chief fire officer from a [recognized] fire department or fire protection district. No more than three members appointed by the governor shall be of the same political party. The terms of office for the members appointed by the governor shall be four years and until their successors are selected and qualified, except that, of those first appointed, two shall have a term of four years, two shall have a term of three years and one shall have a term of two years. There is no limitation on the number of terms an appointed member may serve. The governor may appoint a member for the remaining portion of the unexpired term created by a vacancy. The governor may remove any appointed member for cause. The members shall at their initial meeting select a chairman. All members of the commission shall serve without compensation for their duties, but shall be reimbursed for necessary travel and other expenses incurred in the performance of their official duties. The commission shall meet at least quarterly at the call of the chairman and shall review and determine appropriate programs and activities for which funds may be expended [under] **pursuant to** subsection 4 of this section.

320.097. 1. There is hereby established, as a subaccount of the fire education fund as established in subsection 1 of section 320.094, the "Fire District Equipment Fund", which shall be maintained and accounted for separately, and which shall consist of all moneys transferred

pursuant to subsection 2 of section 320.094 and moneys from all lawful public and private sources. Moneys in the subaccount shall be used to provide funds to fire departments with less than ten thousand dollars in revenue per year, fire protection districts with less than ten thousand dollars in revenue per year and volunteer fire protection associations serving an area having a population of less than ten thousand. Moneys in the subaccount may be used only for purposes authorized by the Missouri fire education commission and the Missouri division of fire safety.

2. The fire education commission shall annually prepare an intended use plan for the funds available in the subaccount.

3. The division of fire safety with approval by the fire education commission may make direct grants to aid in funding equipment of any fire department with less than ten thousand dollars in revenue per year, any fire protection district with less than ten thousand dollars in revenue per year or any volunteer fire protection association serving a population of less than ten thousand. The grants may be made to supplement funds from loan proceeds or other private or public sources. Grants may be used to match federal matching grant programs.

320.098. 1. Fire departments with less than ten thousand dollars in revenue per year, fire protection districts with less than ten thousand dollars in revenue per year or volunteer fire protection associations serving an area having a population of less than ten thousand shall first apply with the division of fire safety for a grant pursuant to section 320.097. The division of fire safety shall make the necessary rules and regulations for the consideration and processing of all grant requests, which shall generally conform to those used by federal grant and loan agencies, which rules shall be filed in the office of the secretary of state. The division of fire safety shall adopt rules necessary to implement the grant program established pursuant to section 320.097. No rule or portion of a rule promulgated pursuant to this section shall become effective unless it has been promulgated pursuant to chapter 536, RSMo. Such rules shall contain, but shall not be limited to the following criteria:

(1) The type of equipment requested by the fire department, fire protection district or volunteer fire protection association;

(2) The urgency and importance of such equipment to a district or association;

(3) The cost of the equipment requested by the fire department, fire protection district or volunteer fire protection association;

(4) The financial resources of the fire department, fire protection district or volunteer fire protection association;

(5) Require the fire department, fire protection district or volunteer fire protection association to use the most currently adopted fire incident report system when reporting to the state fire marshal's office;

(6) Require the adoption and implementation of a minimum basic firefighter training approved by the state fire marshal's office by fire departments, fire protection districts or volunteer fire protection associations; and

(7) Require fire departments, fire protection districts or volunteer fire protection associations to keep basic firefighter training records for auditing purposes.

2. All grant determinations made by the division of fire safety shall be final.

3. In order to qualify for training, education or grant money pursuant to sections 320.094 and 320.097, all fire departments, fire protection districts or volunteer fire protection associations

must comply with the provisions of section 320.271.

321.130. 1. A person, to be qualified to serve as a director, shall be a voter of the district at least two years prior to his **or her** election or appointment and be over the age of [twenty-five] **twenty-four** years; except as provided in subsections 2 and 3 of this section. Nominations and declarations of candidacy shall be filed at the headquarters of the fire protection district by paying a ten dollar filing fee and filing a statement under oath that such person possesses the required qualifications.

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

3. In any fire protection district located in a county of the third or fourth classification, a person to be qualified to serve as a director shall be over the age of [twenty-five] **twenty-four** years and shall be a voter of the county in which the district is located for more than two years prior to his **or her** election or appointment, except that for the first board of directors in such district, a person need only be a voter of the county in which the district is located for one year prior to his **or her** election or appointment.

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

321.190. Each member of the board may receive an attendance fee not to exceed one hundred dollars for attending each regularly called board meeting, or special meeting, but shall not be paid for attending more than two in any calendar month, except that in a county of the first class having a charter form of government, [he] **a member** shall not be paid for attending more than four in any calendar month. In addition, the chairman of the board of directors may receive fifty dollars for attending each regularly or specially called board meeting, but shall not be paid the additional fee for attending more than two meetings in any calendar month. **In addition to receiving fees for attending up to four meetings in any calendar month pursuant to this section, for fire protection districts located in a county of the first classification with a charter form of government, each member of any such fire protection district board may receive an additional attendance fee not to exceed one hundred dollars for attending each such meeting of the board. No board members shall be paid such additional fee for attending more than four such meetings in any calendar month.** Each member of the board shall be reimbursed for his **or her** actual expenditures in the performance of his **or her** duties on behalf of the district. The secretary and the treasurer, if members of the board of directors, may each receive such additional compensation for the performance of their respective duties as secretary and treasurer as the board shall deem reasonable and necessary, not to exceed one thousand dollars per year. The circuit court having jurisdiction over the district shall have power to remove directors or any of them for good cause shown upon a petition, notice and hearing.

321.247. 1. The governing body of any fire protection district, which provides emergency services pursuant to chapter 190, RSMo, or chapter 321, RSMo, to a redevelopment project in a redevelopment area as these terms are defined in section 99.805, RSMo, may impose a sales tax in an amount up to one-half of one percent on all retail sales made in such fire protection

district which is subject to taxation pursuant to sections 144.010 to 144.525, RSMo, provided that such sales tax is accompanied by a property tax reduction as described in this section for each year in which the sales tax is imposed. The tax authorized by this section shall be in addition to any and all other sales taxes provided by law, except that:

(1) No sales tax imposed pursuant to this section shall take effect unless the governing body of the fire protection district submits to the voters of such fire protection district, at a municipal, county or state general, primary or special election, a proposal to authorize the governing body of the fire protection district to impose a tax and reduce property taxes pursuant to this section; and

(2) No governing body defined in this subsection, if such governing body has not imposed a sales tax for fire protection prior to August 28, 2000, shall impose any new sales tax for fire protection other than the sales tax provided in this section.

2. The ballot of submission shall contain, but need not be limited to, the following language:

"Shall (insert name of district) impose a sales tax of (insert amount) for the purpose of providing revenues for the operation of the (insert name of fire protection district) and shall the total property tax levy on properties in the (insert name of fire protection district) be reduced annually by an amount equal to one-half of the total amount of sales tax revenue collected from this sales tax in the same tax year?"

G YES

G NO

If a majority of the votes cast on the proposal by the qualified voters voting thereon are in favor of the proposal, then the sales tax and the corresponding property tax reduction shall be in effect on the first day of January of the year after the passage of the question.

If a majority of the votes cast by the qualified voters voting are opposed to the proposal, then the governing body of the fire protection district or municipality shall have no power to impose the sales tax and reduce the property tax as authorized in this section unless and until the governing body of the fire protection district or municipality resubmits a proposal to authorize the governing body of the fire protection district or municipality to impose the sales tax and reduce the property tax pursuant to this section and such proposal is approved by a majority of the qualified voters voting thereon.

3. In each calendar year in which a sales tax is imposed pursuant to this section, the governing body of the fire protection district shall, with the assistance of the department of revenue, determine the amount of sales tax collected pursuant to this section in the fire protection district in the preceding calendar year; except that, in the first year in which any sales tax is collected pursuant to this section, the governing body of the fire protection district, with the assistance of the department of revenue may, for purposes of this subsection, estimate the amount of sales tax which would have been collected pursuant to this section in the preceding year based on sales tax revenues from the preceding year in the fire protection district. The governing body of the fire protection district shall, after determining the amount of money necessary to be raised by taxation to provide revenue for the fire protection district reduce its levy of ad valorem taxes in the fire protection district in an amount sufficient to decrease the ad

valorem taxes to be collected to provide revenue for the fire protection district by an amount equal to fifty percent of the sales tax revenue collected pursuant to this section in the tax year for which the ad valorem taxes are being levied.

4. All revenue received by a fire protection district from the tax authorized pursuant to this section shall be deposited in a special trust fund and shall be used solely for the operation of the fire protection district.

5. All sales taxes collected by the director of revenue pursuant to this section on behalf of any fire protection district, less one percent for cost of collection which shall be deposited in the state's general revenue fund after payment of premiums for surety bonds as provided in section 32.087, RSMo, shall be deposited in the fire protection sales tax trust fund created in section 321.242 and shall be administered pursuant to subsections 4 to 6 of section 321.242.

321.300. 1. The boundaries of any district organized pursuant to the provisions of this chapter may be changed in the manner prescribed in this section; but any change of boundaries of the district shall not impair or affect its organization or its rights in or to property, or any of its rights or privileges whatsoever; nor shall it affect or impair or discharge any contract, obligation, lien or charge for or upon which it might be liable or chargeable had any change of boundaries not been made.

2. The boundaries may be changed as follows:

(1) Twenty-five percent of the number of voters who voted in the most recent gubernatorial election in the area to be annexed may file with the board a petition in writing praying that such real property be included within the district; provided that in the case of a municipality having less than twenty percent of its total population in one fire protection district, the entire remaining portion may be included in another district so that none of the city is outside of a fire protection district at the time. The petition shall describe the property to be included in the district and shall describe the property owned by the petitioners and shall be deemed to give assent of the petitioners to the inclusion in the district of the property described in the petition; and such petition shall be in substantially the form set forth in section 321.495 dealing with referendums and verified in like manner; provided, however, that in the event that there are more than twenty-five property owners or taxpaying electors signing the petition, it shall be deemed sufficient description of their property in the petition as required in this section to list the addresses of such property; or

(2) All of the owners of any territory or tract of land near or adjacent to a fire protection district who own all of the real estate in such territory or tract of land may file a petition with the board praying that such real property be included in the district. The petition shall describe the property owned by the petitioners and shall be deemed to give assent of the petitioners to the inclusion in the district of the property described in the petition;

(3) Notwithstanding any provision of law to the contrary, in any fire protection district which is partly or wholly located in a noncharter county of the first classification with a population of less than one hundred thousand which adjoins any county of the first classification with a charter form of government with a population of nine hundred thousand or more inhabitants, if such fire protection district serves any portion of a city which is located in both such counties, the boundaries of the district may be expanded so as to include the entire city within the fire protection district, but the boundaries of the district shall not be expanded beyond the city limits of such city, as the boundaries of such city existed on January 1, 1993. Such change in the boundaries of the district shall be accomplished only if twenty-five percent of the number of voters who voted in the most recent gubernatorial election in the area to be annexed file with the

board a petition in writing praying that such real property be included within the district. The petition shall describe the property to be included in the district and shall describe the property owned by the petitioners and shall be deemed to give assent of the petitioners to the inclusion in the district of the property described in the petition; and such petition shall be in substantially the form set forth in section 321.495 dealing with referendums and verified in like manner.

3. The secretary of the board shall cause notice of the filing of any petition filed pursuant to this section to be given and published in the county in which the property is located, which notice shall recite the filing of such petition, the number of petitioners, a general description of the boundaries of the area proposed to be included and the prayer of the petitioners; giving notice to all persons interested to appear at the office of the board at the time named in the notice and show cause in writing, if any they have, why the petition should not be granted. The board shall at the time and place mentioned, or at such time or times to which the hearing may be adjourned, proceed to hear the petition and all objections thereto presented in writing by any person showing cause why the petition should not be granted. The failure of any person interested to show cause in writing why such petition shall not be granted shall be deemed as an assent on his part to the inclusion of such lands in the district as prayed for in the petition.

4. If the board deems it for the best interest of the district, it shall grant the petition, but if the board determines that some portion of the property mentioned in the petition cannot as a practical matter be served by the district, or if it deems it for the best interest of the district that some portion of the property in the petition not be included in the district, then the board shall grant the petition in part only. If the petition is granted, the board shall make an order to that effect and file the same with the circuit clerk; and upon the order of the court having jurisdiction over the district, the property shall be included in the district. If the petition contains the signatures of all the owners of the property pursuant to the provisions of subdivision (2) of subsection 2 of this section, the property shall be included in the district upon the order of the court. If the petition contains the signatures of twenty-five percent of the number of voters who voted in the most recent gubernatorial election in the area to be annexed pursuant to subdivision (1) or subdivision (3) of subsection 2 of this section, the property shall be included in the district subject to the election provided in section 321.301. The circuit court having jurisdiction over the district shall proceed to make any such order including such additional property within the district as is provided in the order of the board, unless the court shall find that such order of the board was not authorized by law or that such order of the board was not supported by competent and substantial evidence.

5. Any city annexing an area protected by an existing fire district shall reimburse such district for any outstanding obligations and equipment which was attributable to or was used for providing fire protection service in such area annexed.

[5.] **6.** Any person aggrieved by any decision of the board made pursuant to the provisions of this section may appeal that decision to the circuit court of the county in which the property is located within thirty days of the decision by the board.

[6.] **7.** No fire protection district, or employee thereof, in which territory is annexed pursuant to this section shall be required to comply with any prescribed firefighter training program or regimen which would not otherwise apply to the district or its employees, but for the requirements applicable to the annexed territory.

321.701. 1. Each member of a fire protection district board shall be subject to recall from office by the registered voters of the district from which he was elected **if such board member commits acts of misconduct, malfeasance or nonfeasance relating to official board duties or is convicted of any**

felony or any class A or class B misdemeanor. Proceedings may be commenced for the recall of any fire protection district board member by the filing of a notice of intention to circulate a recall petition pursuant to sections 321.701 to 321.716 **by a registered voter or voters from such board member's district.**

2. Proceedings may not be commenced against any member if, at the time of commencement, that member:

(1) Has not held office during his current term for a period of more than one hundred eighty days;

or

(2) Has one hundred eighty days or less remaining in his term; or

(3) Has had a recall election determined in his favor within the current term of office.

[321.701. 1. Each member of a fire protection district board located in any county of the first classification with a population of nine hundred thousand or more inhabitants shall be subject to recall from office by the registered voters of the district from which he was elected. Proceedings may be commenced for the recall of any fire protection district board member by the filing of a notice of intention to circulate a recall petition pursuant to sections 321.701 to 321.716.

2. Proceedings may not be commenced against any member if, at the time of commencement, that member:

(1) Has not held office during his current term for a period of more than one hundred eighty days; or

(2) Has one hundred eighty days or less remaining in his term; or

(3) Has had a recall election determined in his favor within the current term of office.]

321.703. 1. The notice of intention to circulate a recall petition shall be served personally, or by certified mail, on the board member sought to be recalled. A copy thereof shall be filed, along with an affidavit of the time and manner of service, with the election authority, as defined in chapter 115, RSMo. A separate notice shall be filed for each board member sought to be recalled and shall contain all of the following:

(1) The name of the board member sought to be recalled;

(2) A **brief** statement[, not exceeding two hundred words in length,] of the reasons for the proposed recall. **This statement must relate facts which constitute acts of misconduct, malfeasance or nonfeasance by the board member in the exercise of his or her official duties or which establish proof of a conviction for any felony or any class A or B misdemeanor;**

(3) The name(s) and [business or] residence address(es) of [at least one, and not more than five,] **all** proponent(s) of the recall, **each of whom shall be a registered voter in said district.**

2. Within seven days after the filing of the notice of intention, the board member may file with the election authority a statement, not exceeding two hundred words in length, [in] **an** answer to the statement of the proponents. If an answer is filed, the board member shall also serve a copy of it, personally or by certified mail, on one of the proponents named in the notice of intention.

3. The statement and answer are intended solely for the information of the voters. No insufficiency in form or substance thereof shall affect the validity of the election proceedings.

355.066. Unless the context otherwise requires or unless otherwise indicated, as used in this chapter the following terms mean:

(1) "Approved by or approval by the members", approved or ratified by the affirmative vote of

a majority of the voters represented and voting at a duly held meeting at which a quorum is present, which affirmative votes also constitute a majority of the required quorum, or by a written ballot or written consent in conformity with this chapter, or by the affirmative vote, written ballot or written consent of such greater proportion, including the votes of all the members of any class, unit or grouping as may be provided in the articles, bylaws or this chapter for any specified member action;

(2) "Articles of incorporation" or "articles", amended and restated articles of incorporation and articles of merger;

(3) "Board" or "board of directors", the board of directors except that no person or group of persons is the board of directors because of powers delegated to that person or group pursuant to section 355.316;

(4) "Bylaws", the code or codes of rules, other than the articles, adopted pursuant to this chapter for the regulation or management of the affairs of the corporation, irrespective of the name or names by which such rules are designated. Bylaws shall not include legally enforceable covenants, declarations, indentures or restrictions imposed upon members by validly recorded indentures, declarations, covenants, restrictions or other recorded instruments, as they apply to real property;

(5) "Class", a group of memberships which have the same rights with respect to voting, dissolution, redemption and transfer. For the purpose of this section, "rights" shall be considered the same if they are determined by a formula applied uniformly;

(6) "Corporation", public benefit and mutual benefit corporations;

(7) "Delegates", those persons elected or appointed to vote in a representative assembly for the election of a director or directors or on other matters;

(8) "Deliver" includes mail;

(9) "Directors", individuals, designated in the articles or bylaws or elected by the incorporator or incorporators, and their successors and individuals elected or appointed by any other name or title to act as members of the board;

(10) "Distribution", the payment of a dividend or any part of the income or profit of a corporation to its members, directors or officers;

(11) "Domestic corporation", a Missouri corporation;

(12) "Effective date of notice" is defined in section 355.071;

(13) "Employee" does not include an officer or director who is not otherwise employed by the corporation;

(14) "Entity", domestic corporations and foreign corporations, business corporations and foreign business corporations, for-profit and nonprofit unincorporated associations, business trusts, estates, partnerships, trusts, and two or more persons having a joint or common economic interest, and a state, the United States, and foreign governments;

(15) "File", "filed" or "filing", filed in the office of the secretary of state;

(16) "Foreign corporation", a corporation organized under a law other than the laws of this state which would be a nonprofit corporation if formed under the laws of this state;

(17) "Governmental subdivision" includes authority, county, district, and municipality;

(18) "Includes" denotes a partial definition;

(19) "Individual", a natural person;

(20) "Means" denotes a complete definition;

(21) "Member", without regard to what a person is called in the articles or bylaws, any person or

persons who on more than one occasion, pursuant to a provision of a corporation's articles or bylaws, have the right to vote for the election of a director or directors; but a person is not a member by virtue of any of the following:

- (a) Any rights such person has as a delegate;
- (b) Any rights such person has to designate a director or directors; or
- (c) Any rights such person has as a director;
- (22) "Membership", the rights and obligations a member or members have pursuant to a corporation's articles, bylaws and this chapter;
- (23) "Mutual benefit corporation", a domestic corporation which is formed as a mutual benefit corporation pursuant to sections 355.096 to 355.121 or is required to be a mutual benefit corporation pursuant to section 355.881;
- (24) "Notice" is defined in section 355.071;
- (25) "Person" includes any individual or entity;
- (26) "Principal office", the office, in or out of this state, so designated in the annual report filed pursuant to section 355.856 where the principal offices of a domestic or foreign corporation are located;
- (27) "Proceeding" includes civil suits and criminal, administrative, and investigatory actions;
- (28) "Public benefit corporation", a domestic corporation which is formed as a public benefit corporation pursuant to sections 355.096 to 355.121, or is required to be a public benefit corporation pursuant to section 355.881, **or any not-for-profit entity which is an ambulance service and is created as a trust for the use and benefit of a city with a population of more than four hundred thousand inhabitants located in more than one county;**
- (29) "Record date", the date established pursuant to sections 355.181 to 355.311 on which a corporation determines the identity of its members for the purposes of this chapter;
- (30) "Resident", a full-time resident of a long-term care facility or residential care facility;
- (31) "Secretary", the corporate officer to whom the board of directors has delegated responsibility pursuant to subsection 2 of section 355.431 for custody of the minutes of the directors' and members' meetings and for authenticating the records of the corporation;
- (32) "State", when referring to a part of the United States, includes a state or commonwealth, and its agencies and governmental subdivisions, and any territory or insular possession, and its agencies and governmental subdivisions, of the United States;
- (33) "United States" includes any agency of the United States;
- (34) "Vote" includes authorization by written ballot and written consent; and
- (35) "Voting power", the total number of votes entitled to be cast for the election of directors at the time the determination of voting power is made, excluding a vote which is contingent upon the happening of a condition or event that has not occurred at the time. Where a class is entitled to vote as a class for directors, the determination of voting power of the class shall be based on the percentage of the number of directors the class is entitled to elect out of the total number of authorized directors.

650.390. As used in sections 650.390 to 650.411, the following words and terms mean:

- (1) "Board of commissioners", a board appointed by the chief executive officer of the governing body within a service area for the purpose of administering a county emergency communications system. No board of commissioners established pursuant to sections 650.390 to 650.411 shall have jurisdiction over local emergency or police dispatching agencies;
- (2) "County", any charter county with a population of more than nine hundred thousand

inhabitants;

(3) "Emergency communications system", a wireless radio communication network, including infrastructure hardware and software, providing communications links that permit participating governmental or public safety entities to communicate within the area served by such system which is coterminous with the geographic boundaries of the county in which the emergency communications system is situated;

(4) "Governing body", the legislative body of any county with a charter form of government and a population of more than nine hundred thousand inhabitants.

650.393. 1. The governing body of a county may establish an emergency communications system commission within the geographical boundaries of such county. Each such commission shall be composed of seven commissioners appointed by the chief executive officer of the county in which the commission is established.

2. The commission shall include a chief of police of a municipality located within the county, the chief of the police or the sheriff of the county, a chief of a municipal fire department located within the county, a chief of a fire protection district located within the county, and three at-large commissioners, who shall be residents of the county, all subject to the confirmation of the governing body of the county. Where applicable, the member who is a municipal chief of police shall be chosen from those persons nominated by a local police chiefs association. The members who are chiefs of either a municipal fire department or a fire protection district shall be chosen from those persons nominated by a local fire chiefs association. One at-large commissioner shall be chosen from those persons nominated by a local municipal league or organization. At least two of the at-large commissioners shall be persons who are not employed by a fire department or district, a police or sheriff's department, or any emergency medical system, or who are not elected or appointed officials of a political subdivision of the state or are not employed by the state of Missouri.

3. The terms of office of the commissioner who is a chief of police or sheriff of the county shall be coterminous with such person's term of office as chief of police or sheriff. At the first meeting of the commission, the other commissioners shall choose the length of their terms, with two commissioners serving for two years, three commissioners serving for three years and one commissioner serving for four years. All succeeding commissioners shall serve for five years. Terms shall end on December thirty-first of the respective year. No commissioner shall serve for more than two consecutive full terms. A commissioner who is not an at-large commissioner shall remain in office only so long as he or she retains office with the department or district that such commissioner served at the time such person was appointed to the board of commissioners. Vacancies on the board of commissioners shall be filled by persons appointed by the chief executive officer of the county in the same manner by which the commissioner whose office is vacant was first appointed.

650.396. A county in which an emergency communications system commission has been established may, by a majority vote of the qualified voters voting thereon, levy and collect either a tax on the taxable real property in the district, not to exceed six cents per one hundred dollars of assessed valuation or a sales tax not to exceed one-tenth of one percent, to accomplish any of the following purposes:

(1) The provision of necessary funds to establish, operate and maintain an emergency

communications system to serve the county in which the commission is located; and

(2) The provision of funds to supplement existing funds for the operation and maintenance of an existing emergency communications system in the county in which the commission is located.

650.399. 1. The board of commissioners may, by a majority vote of its members present, request that the governing body of the county submit to the qualified voters of such county at a general, primary or special election either of the questions contained in subsection 2 of this section. The governing body may approve or deny such request. The governing body may also vote to submit such question without a request of the board of commissioners. The county election official shall give legal notice of the election pursuant to chapter 115, RSMo.

2. The questions shall be put in substantially the following form:

(1) "Shall (name of county) establish an emergency communications system fund to establish (and/or) maintain an emergency communications system, and for which the county shall levy a tax of (insert exact amount, not to exceed six cents) per each one hundred dollars assessed valuation therefor, to be paid into the fund for that purpose?"

G YES

G NO; or

(2) "Shall (name of county) establish an emergency communications system fund to establish (and/or) maintain an emergency communications system, and for which the county shall levy a sales tax of (insert exact amount, not to exceed one-tenth of one percent), to be paid into the fund for that purpose?"

G YES

G NO; or

(3) "Shall (name of county) establish an emergency communications system fund to establish (and/or) maintain an emergency communications system, and for which the county shall levy a tax (insert exact amount) or assess a fee for (describe exact amount), to be paid into the fund for that purpose?"

G YES

G NO

3. The election shall be conducted and vote canvassed in the same manner as other county elections. If the majority of the qualified voters voting thereon vote in favor of such tax, then the county shall levy such tax in the specified amount, beginning in the tax year immediately following its approval. The tax so levied shall be collected along with other county taxes in the manner provided by law. If the majority of the qualified voters voting thereon vote against such tax, then such tax shall not be imposed unless such tax is resubmitted to the voters and a majority of the qualified voters voting thereon approve such tax.

650.402. All funds collected from any tax approved pursuant to section 650.399 shall be deposited in a special county fund, to be designated the "Emergency Communications System Fund". The fund shall be held and managed in the same manner as all other funds of such county. The fund shall be administered by the board of commissioners to accomplish the purposes set out in sections 650.396, 650.405 and 650.411, and shall be used for no other purpose.

650.405. The board of commissioners shall have the following powers and responsibilities:

(1) To supervise and administer, within the acquisition and purchasing procedures of the county, the building, acquisitions by purchase or otherwise, construction and operation of an emergency communications system for the county in which the commission is located;

- (2) To administratively control and manage the emergency communications system;
- (3) To negotiate and recommend to the governing body that the county contract with such companies or other business or governmental entities, which in the opinion of the board of commissioners are necessary to provide equipment, material and professional services to establish, construct and maintain an emergency communications system and conduct the business of the commission;
- (4) To promulgate an annual report of the financial condition and operation of the commission and the emergency communications system;
- (5) To recommend to the governing body that county purchase or acquire by gift such real estate and equipment and materials necessary to accomplish the purposes of the commission and the emergency communications system; and
- (6) To adopt such bylaws, rules and regulations as in the opinion of the board of commissioners shall best serve the purpose of the commission.

650.408. 1. The funds necessary for payment of any obligation of the county in connection with the establishment, operation and maintenance of the emergency communications system may be paid by the county out of the fund established pursuant to section 650.402, or from bonds issued pursuant to this section.

2. For the purpose of supporting the operation and other purposes of the commission and the emergency communications system, the county may issue bonds for and on behalf of the county, payable out of funds derived from the sales tax authorized in sections 650.396 and 650.399 or from taxation of all taxable real property in the county, up to an amount not exceeding six percent of the assessed valuation of such property, with such evaluation to be ascertained by the assessment immediately prior to the most recent assessment for state and county purposes, or from revenue generated from any other tax or fee authorized and approved by the voters pursuant to section 650.399. Such bonds shall be issued in denominations of one hundred dollars, or some multiple thereof, and the provisions of section 108.170, RSMo, to the contrary notwithstanding, such bonds may bear interest at a rate determined by the emergency communications system commissioners, payable semiannually, to become payable no later than twenty years after the date of the bonds.

3. Whenever the board of commissioners of any such emergency communications district proposes to issue bonds pursuant to subdivision (3) of subsection 2 of this section, they shall submit the question to the voters in the district pursuant to this section. The notice for any such election shall, in addition to the requirements of chapter 115, RSMo, state the amount of bonds to be issued.

4. The question shall be submitted in substantially the following form:

"Shall County issue bonds in the amount of dollars, the purpose of which are to support the construction, repair and maintenance of the Emergency Communications System?"

G YES

G NO

5. The result of the election on the question shall be entered upon the records of the county. If it shall appear that four-sevenths of the voters voting on the question shall have voted in favor of the issue of the bonds, the commissioners shall order and direct the execution of the bonds for and on behalf of such county and the commission. If the general law of the state is such

that an amount other than a four-sevenths majority is required on ballot measures of such type, the amount set by the general law of the state shall control.

6. The county shall not sell such bonds for less than ninety-five percent of the par value thereof, and the proceeds shall be paid over to the county treasurer, and disbursed on warrants drawn by the president or vice president of the board of commissioners and attested by the secretary. The proceeds of the sale of such bonds shall be used for the purpose only of paying the cost of holding such election, and constructing, repairing and maintaining the emergency communication system and its appurtenances.

7. Such bonds shall be payable and collectible only out of moneys derived from tax revenues authorized by section 650.399, from the sale of such bonds or from interest that may accrue on funds so derived while on deposit with any county depository. The county treasurer shall hold in reserve, for payment of interest on such bonds, a sufficient amount of the money so derived that may come into his or her hands in excess of the amount then necessary to pay all bonds and interest then past due, to pay all interest that will become payable before the next installment of such special tax becomes payable, and three percent of the principal amount of the bonds not then due. The county treasurer shall, whenever any of the bonds or interest thereon become due, apply such money as may be in his or her custody and applicable thereto, or that may thereafter come into his or her custody and be applicable thereto, to payment of such bonds and interest as may be due and unpaid.

8. All money derived from the tax authorized pursuant to section 650.399 shall be used in paying the bonds and the interest thereon, except that the money that may be collected pursuant to such tax in excess of the amount necessary to pay all bonds then past due and such bonds and interest as will become payable before another assessment of such tax becomes payable may, less an amount equal to three percent of the principal amount of the bonds not then due, be used for the purposes authorized in section 650.411.

9. The county treasurer shall, as such bonds are sold, deliver them to the purchaser upon being ordered to do so by the commissioners. The county treasurer shall cancel bonds as such bonds are paid, and shall deliver them to the clerk of the county.

650.411. All money derived from the sale of bonds pursuant to section 650.408 except such portion as is required to be reserved pursuant to subsections 7 and 8 of section 650.408, all money collected on any tax authorized according to section 650.399 and all interest that may accrue on moneys so derived while deposited with any county depository and not required to be used in paying such bonds or interest thereon, shall be used, and warrants drawn on the treasurer therefor, to pay:

(1) The cost and expenses incurred by the county maintaining any real or personal property used in the operation of the emergency communications system; and

(2) Such working, administrative and incidental expenses, not otherwise provided by law, as may be incurred in operating such emergency communications system.

[190.044. 1. No taxpayer shall be required to pay property taxes for ground ambulance service to both an ambulance district and a fire protection district or two ambulance districts which operate a ground ambulance service, unless reaffirmed and authorized pursuant to this section. In the event that a taxpayer in a third class county is paying taxes to both entities to provide ground ambulance service, any taxpayer residing in the area subject to the double tax may file a petition with the county clerk in which the

area, or greatest part thereof, is situated requesting that the double tax be eliminated and that the area only pay a tax to one entity.

2. Upon receipt of such petition, the county clerk shall determine the area taxed by two such entities and place the question before the voters of such area at the next state or municipal election. The petition shall request that the following question be submitted to the voters residing within the geographic limits of the area:

The (description of area) is currently paying a tax to provide ambulance service to the (name of entity created first) and the (name of entity created second).

As a result, choose only one of the following districts to provide ambulance service and taxation:

..... (name of entity created first)

..... (name of entity created second).

3. The entity receiving the most votes shall be declared as the single taxing entity for the area in question. The taxpayers within the area shall thereafter only pay one tax to the single taxing entity following a three-year period, over which the tax rate levied and collected shall be decreased by one-third each year until such tax is no longer levied or collected by the entity not chosen to provide service.

4. All costs incurred by the county clerk as a result of this section, including election costs, shall be paid by the entity not chosen to provide service.

5. The boundaries and service area of the entities providing ambulance service will reflect the change as determined by the election.]

Bill

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