

FIRST EXTRAORDINARY SESSION

SENATE BILL NO. 4

92ND GENERAL ASSEMBLY

INTRODUCED BY SENATOR GOODE.

Read 1st time June 2, 2003, and ordered printed.

TERRY L. SPIELER, Secretary.

2287S.011

AN ACT

To amend chapters 136, 143, 149, and 313, RSMo, by adding thereto six new sections relating to the Hancock Health, Education, and Safety Surcharge Fund, with a referendum clause.

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

Section A. Chapters 136, 143, 149, and 313, RSMo, are amended by adding thereto six new sections, to be known as sections 136.420, 143.1020, 149.089, 149.091, 313.828, and 313.829, to read as follows:

136.420. 1. The general assembly declares it is the public policy of this state to avoid exceeding the defined limit or limits of section 18, article X, of the Constitution of Missouri, and to further comply with section 18, article X, of the Constitution of Missouri, and specifically section 18(e), Article X, of the Constitution of Missouri.

2. The general assembly declares that while it is a constitutional requirement of this state to balance the budget, and the public policy of this state to avoid exceeding the defined limit or limits of section 18, article X, of the Constitution of Missouri, and to further comply with section 18, article X, of the Constitution of Missouri, and specifically section 18(e), Article X, of the Constitution of Missouri, it is also the public policy of this state to balance the budget and avoid exceeding the defined limit or limits of section 18, article X, of the Constitution of Missouri in a way that is in the best interests for the health, safety, and welfare of the citizens of the state of Missouri.

3. Because of the constitutional and public policy requirements enunciated in subsections 1 and 2 of this section, there is hereby created in the state treasury the

"Hancock Health, Education, and Safety Surcharge Fund", which shall consist of revenue derived from the Hancock Health, Education, and Safety Surcharge collected pursuant to sections 143.1020, 149.089, 149.091, 313.828, and 313.829, RSMo. The purpose of the fund is to avoid exceeding the defined limit or limits of section 18, article X, of the Constitution of Missouri, and to further comply with section 18, article X, of the Constitution of Missouri, and specifically section 18(e), Article X, of the Constitution of Missouri. The state treasurer shall be custodian of the fund and shall approve disbursements from the fund in accordance with sections 30.170 and 30.180, RSMo. Except as provided in section 313.829, RSMo, all money in the fund shall be credited to the state general revenue fund, unless otherwise appropriated by the general assembly. Notwithstanding the provisions of section 33.080, RSMo, to the contrary, any moneys remaining in the fund at the end of the biennium shall not revert to the credit of the general revenue fund. The state treasurer shall invest moneys in the fund in the same manner as other funds are invested. Any interest and moneys earned on such investments shall be credited to the fund.

4. The surcharges imposed in sections 143.1020, 149.089, 149.091, 313.828, and 313.829, RSMo, shall not become effective unless a ballot measure to authorize the imposition of the surcharges is submitted by the secretary of state for approval or rejection by the voters of the state on a date available for public elections or a special election to be called by the governor pursuant to this section.

5. The ballot of submission for the surcharges authorized in this section shall be in substantially the following form:

Shall a surcharge as authorized in sections 143.1020, 149.089, 149.091, 313.828, and 313.829, RSMo, be imposed to avoid exceeding the revenue and expenditure limits established in the Missouri Constitution and at the same time balance the budget in the best interests of the health, safety, and welfare of the citizens of the state of Missouri?

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 ballot measure by the qualified voters voting thereon are in favor of the measure, then the surcharges shall become effective on the first day of the first month following voter approval. If a majority of the votes cast on the question by the qualified voters voting thereon are opposed to the measure, then the surcharges authorized in this section shall not become effective and the state shall have no power to collect the surcharges unless and until the measure is approved. The measure may be resubmitted at each subsequent date available for

public elections, or may be resubmitted at any subsequent special election called by the governor on the ballot measure, until such measure is approved.

6. The additional revenue derived from the surcharges imposed in sections 143.1020, 149.089, 149.091, 313.828, and 313.829, RSMo, shall not be part of the total state revenue within the meaning of sections 17 and 18, article X, of the Constitution of Missouri. The expenditure of this revenue shall not be an expense of state government pursuant to section 20, article X, of the Constitution of Missouri.

7. The appropriate state agencies shall promulgate rules and regulations to administer this section. No rule or portion of a rule promulgated pursuant to the authority of this section shall become effective unless it has been promulgated pursuant to chapter 536, RSMo.

8. This section shall become effective when approved by a majority of the qualified voters of the state voting thereon.

143.1020. 1. In addition to all other taxes levied and imposed in this chapter, for all tax years beginning on or after January 1, 2003, a surcharge is imposed for every taxable year on the Missouri taxable income of every resident in an amount equal to five percent of the amount of the taxpayer's state tax liability. The surcharge shall be imposed only on individual Missouri income tax returns with a total federal adjusted gross income of two hundred thousand dollars or more, and shall be administered and collected pursuant to this chapter. The revenue derived from the surcharge imposed in this section shall be deposited in the Hancock health, education, and safety fund established in section 136.420, RSMo.

2. This section shall become effective on the first day of the first month following approval by a majority of the qualified voters of the state voting thereon.

149.089. 1. In addition to the tax imposed in section 149.015, a surcharge is imposed on the sale of cigarettes in an amount equal to twenty-seven and one-half mills per cigarette. Beginning July 1, 2004, the revenue derived from the additional surcharge imposed in this section shall be deposited in the Hancock health, education, and safety fund established in section 136.420, RSMo.

2. This section shall become effective on the first day of the first month following approval by a majority of the qualified voters of the state voting thereon.

149.091. 1. In addition to all other taxes on the first sale of tobacco products, other than cigarettes, imposed in this chapter, a surcharge is imposed on the first sale of tobacco products, other than cigarettes, within the state. The surcharge on tobacco products shall be at the rate of twenty percent of the manufacturer's invoice price before discounts and deals, and shall be paid by the person making the first sale within the state. Licensed persons making first sales within the state shall be allowed

approved credit for returned merchandise provided the tax was paid on the returned merchandise and the purchaser was given a refund or credit. Such licensed person shall take such approved credit on the return for the month in which the purchaser was given the refund or credit.

2. Beginning July 1, 2004, the revenue derived from the additional surcharge imposed in this section shall be deposited in the Hancock health, education, and safety fund established in section 136.420, RSMo.

3. This section shall become effective on the first day of the first month following approval by a majority of the qualified voters of the state voting thereon.

313.828. 1. In addition to all other fees imposed in this chapter for each person embarking on an excursion gambling boat for the first time during each gaming day, a surcharge is imposed on an excursion boat licensee, and paid to the gaming commission, in the amount of one dollar and seventy cents for each person embarking on an excursion gambling boat for the first time during each gaming day. Nothing in this section shall preclude any licensee from charging any amount deemed necessary for a ticket of admission to any person embarking on an excursion gambling boat. If tickets are issued which are good for more than one excursion, the surcharge shall be paid to the commission for each person using the ticket on each excursion that the ticket is used. If free passes or complimentary admission tickets are issued, the excursion boat licensee shall pay to the commission the same surcharge upon these passes or complimentary tickets as if they were sold at the regular and usual admission rate; however, the excursion boat licensee may issue surcharge-free passes to actual and necessary officials and employees of the licensee or other persons actually working on the excursion gambling boat. The issuance of surcharge-free passes is subject to the rules of the commission, and a list of all persons to whom the surcharge-free passes are issued shall be filed with the commission.

2. This section shall become effective on the first day of the first month following approval by a majority of the qualified voters of the state voting thereon.

313.829. 1. In addition to the tax imposed on the adjusted gross receipts received from gambling games authorized in sections 313.800 to 313.850, a surcharge is imposed at the rate of five percent on the adjusted gross receipts received from gambling games authorized in sections 313.800 to 313.850. The surcharge imposed by this section shall be deposited in the Hancock health, education, and safety fund established in section 136.420, RSMo, and shall be transferred to the gaming proceeds for education fund created by section 313.822, RSMo. The surcharge imposed in this section shall be returned to the gaming commission in accordance with the

commission's rules and regulations who shall transfer the surcharge to the director of revenue. All checks and drafts remitted for payment of this surcharge shall be made payable to the director of revenue. If the commission is not satisfied with the return or payment made by any licensee, it is hereby authorized and empowered to make an assessment of the amount due based upon any information within its possession or that shall come into its possession. Any licensee against whom an assessment is made by the commission may petition for a reassessment. The request for reassessment shall be made within twenty days from the date the assessment was mailed or delivered to the licensee, whichever is earlier, whereupon the commission shall give notice of a hearing for reassessment and fix the date upon which the hearing shall be held. The assessment shall become final if a request for reassessment is not received by the commission within the twenty days. Except as provided in this section, all functions incident to the administration, collection, enforcement, and operation of the tax imposed by sections 144.010 to 144.525, RSMo, shall be applicable to surcharge imposed in this section.

2. This section shall become effective on the first day of the first month following approval by a majority of the qualified voters of the state voting thereon.

Section B. Section A of this act is hereby submitted to the qualified voters of this state for approval or rejection at a special election which is hereby ordered and which shall be held and conducted on the first Tuesday in August, 2003, pursuant to the laws and constitutional provisions of this state applicable to general elections and the submission of referendum measures by initiative petition, and it shall become effective when approved by a majority of the votes cast thereon at such election and not otherwise.

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