

SECOND REGULAR SESSION

# SENATE BILL NO. 1329

92ND GENERAL ASSEMBLY

INTRODUCED BY SENATOR GRIESHEIMER.

Read 1st time February 26, 2004, and ordered printed.

TERRY L. SPIELER, Secretary.

4722S.03I

## AN ACT

To repeal sections 190.335 and 190.339, RSMo, and to enact in lieu thereof four new sections relating to emergency services.

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

Section A. Sections 190.335 and 190.339, RSMo, are repealed and four new sections enacted in lieu thereof, to be known as sections 190.330, 190.335, 190.339, and 190.341, to read as follows:

**190.330. As used in sections 190.330 to 190.341, the following terms shall mean:**

(1) "Emergency telephone service", a telephone system utilizing a single three digit number, "911", for reporting police, fire, medical, or other emergency situations;

(2) "Emergency services board" or "board", those persons appointed or elected pursuant to section 190.335;

(3) "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, trust, business, or common law trust, receiver, assignee for the benefit of creditors, trustee or trustee in bankruptcy, or any other service user;

(4) "Public agency", any city, county, city not within a county, municipal corporation, public district or public authority located in whole or in part within this state which provides or has authority to provide fire fighting, law enforcement, ambulance, emergency medical, or other emergency services.

190.335. 1. In lieu of the tax levy authorized under section 190.305 for emergency

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

telephone services, the county commission of any county may impose a county sales tax for the provision of central dispatching of fire protection, including law enforcement agencies, emergency ambulance service or any other emergency services, including emergency telephone services, which shall be collectively referred to herein as "emergency services", and which may also include the purchase and maintenance of communications and emergency equipment, including the operational costs associated therein, in accordance with the provisions of this section.

2. Such county commission may, by a majority vote of its members, submit to the voters of the county, at a public election, a proposal to authorize the county commission to impose a tax under the provisions of this section. If the residents of the county present a petition signed by a number of residents equal to ten percent of those in the county who voted in the most recent gubernatorial election, then the commission shall submit such a proposal to the voters of the county.

3. The ballot of submission shall be in substantially the following form:

Shall the county of ..... (insert name of county) impose a county sales tax of ..... (insert rate of percent) percent for the purpose of providing central dispatching of fire protection, emergency ambulance service, including emergency telephone services, and other emergency services?

YES

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 ordinance shall be in effect as provided herein. If a majority of the votes cast by the qualified voters voting are opposed to the proposal, then the county commission shall have no power to impose the tax authorized by this section unless and until the county commission shall again have submitted another proposal to authorize the county commission to impose the tax under the provisions of this section, and such proposal is approved by a majority of the qualified voters voting thereon.

4. The sales tax may be imposed at a rate not to exceed one percent on the receipts from the sale at retail of all tangible personal property or taxable services at retail within any county adopting such tax, if such property and services are subject to taxation by the state of Missouri under the provisions of sections 144.010 to 144.525, RSMo. The sales tax shall not be collected prior to thirty-six months before operation of the central dispatching of emergency services.

5. Except as modified in this section, all provisions of sections 32.085 and 32.087, RSMo, shall apply to the tax imposed under this section.

6. Any tax imposed pursuant to section 190.305 shall terminate at the end of the tax year in which the tax imposed pursuant to this section for emergency services is certified by the board to be fully operational. Any revenues collected from the tax authorized under section 190.305 shall be credited for the purposes for which they were intended.

7. At least once each calendar year, the [governing body] **board, as established by subsection 11 of this section**, shall establish a tax rate, not to exceed the amount authorized, that together with any surplus revenues carried forward will produce sufficient revenues to fund the expenditures authorized by this act. Amounts collected in excess of that necessary within a given year shall be carried forward to subsequent years. The [governing body] **board** shall make its determination of such tax rate each year no later than September first and shall fix the new rate which shall be collected as provided in this act. Immediately upon making its determination and fixing the rate, the [governing body] **board** shall publish in its minutes the new rate, and it shall notify every retailer by mail of the new rate.

8. Immediately upon the affirmative vote of voters of such a county on the ballot proposal to establish a county sales tax pursuant to the provisions of this section, the county commission shall appoint the initial members of a board to administer the funds and oversee the provision of emergency services in the county. Beginning with the general election in 1994, all board members shall be elected according to this section and other applicable laws of this state. At the time of the appointment of the initial members of the board, the commission shall relinquish and no longer exercise the duties prescribed in this chapter with regard to the provision of emergency services and such duties shall be exercised by the board.

9. The initial board shall consist of seven members appointed without regard to political affiliation, [who] **three of whom** shall be selected from, and who shall represent, the fire protection districts, ambulance districts, sheriff's department, municipalities, **and** any other emergency services [and the general public]. **Four of the members of the board shall not be selected from or represent the fire protection district, ambulance districts, sheriff's department, municipalities, or any other emergency services. Any individual serving on the board on August 28, 2004, may continue to serve and seek reelection or reappointment to the board, notwithstanding any provisions of this subsection.** This initial board shall serve until its successor board is duly elected and installed in office. The commission shall ensure geographic representation of the county by appointing no more than four members from each district of the county commission.

10. Beginning in 1994, three members shall be elected from each district of the county commission and one member shall be elected at large[, such member to be the chairman of the board]. **The members of the board shall annually elect, from among their number, the chairman of the board.** Of those first elected, four members from districts of the county commission shall be elected for terms of two years and two members from districts of the county commission and the member at large shall be elected for terms of four years. In 1996, and thereafter, all terms of office shall be four years.

11. **When the board is organized, it shall be a body corporate and a political subdivision of the state and shall be known as the "....."**

**Emergency Services Board".**

190.339. 1. The powers and duties of the emergency services board shall include, but not be limited to:

- (1) Planning a 911 system and dispatching system;
- (2) Coordinating and supervising the implementation, upgrading or maintenance of the system, including the establishment of equipment specifications and coding systems;
- (3) Receiving money from any county sales tax authorized to be levied pursuant to section 190.335 and authorizing disbursements from such moneys collected;
- (4) Hiring any staff necessary for the implementation, upgrade or operation of the system;
- (5) Acquiring land in fee simple, rights in land and easements upon, over, or across land and leasehold interests in land and tangible and intangible personal property used or useful for the location, establishment, maintenance, development, expansion, extension, or improvement of the central dispatching of emergency services. The acquisition may be by dedication, purchase, gift, agreement, lease, use, or adverse possession;**
- (6) Borrowing money and issuing bonds, notes, certificates, or other evidences of indebtedness for the purpose of accomplishing any of its corporate purposes, subject to compliance with any condition or limitation set forth in sections 190.330 to 190.341 or otherwise provided by the Constitution of Missouri;**
- (7) To sue and be sued, and be party to suits, actions, and proceedings;**
- (8) To have and use a corporate seal;**
- (9) To enter into contracts, franchises, and agreements with any person, partnership, association, or corporation, public or private, affecting the affairs of the board;**
- (10) To have the management, control, and supervision of all the business affairs of the board and the construction, installation, operation, and maintenance of any improvements;**
- (11) To hire and retain agents and employees and to provide for their compensation, including health and pension benefits;**
- (12) To adopt and amend bylaws and any other rules and regulations;**
- (13) To pay all expenses connected with the first election and all subsequent elections;**
- (14) To have and exercise all rights and powers necessary or incidental to or implied from the specific powers granted in this section. Such specific powers shall not be considered as a limitation upon any power necessary or appropriate to carry out the purposes and intent of sections 190.330 to 190.341;**
- (15) To maintain central dispatching of emergency services for the benefit**

of the inhabitants of the area comprising the district regardless of race, creed, or color, and to adopt such reasonable rules and regulations as may be necessary to render the highest quality of the central dispatching of emergency services; to exclude from the use of the central dispatching of emergency services all persons who willfully disregard any of the rules and regulations so established; to extend the privileges and use of the central dispatching of emergency services to persons residing outside the area of the district upon such terms and conditions as the board prescribes by its rules and regulations;

**(16) To purchase insurance indemnifying the district and its employees, officers, volunteers, and directors against liability in rendering services incidental to the furnishing of central dispatching of emergency services. Purchase of insurance pursuant to this section is not intended to waive sovereign immunity, official immunity, or the Missouri public duty doctrine defenses.**

2. The administrative control and management of the moneys from any county sales tax authorized to be levied pursuant to section 190.335 and the administrative control and management of the central dispatching of emergency services shall rest solely with the board, and the board shall employ all necessary personnel, affix their compensation and provide suitable quarters and equipment for the operation of the central dispatching of emergency services from the funds available for this purpose.

3. The board may contract to provide services relating in whole or in part to central dispatching of emergency services and for such purpose may expend the tax funds or other funds.

4. The board shall elect a vice chairman, treasurer, secretary and such other officers as it deems necessary. Before taking office, the treasurer shall furnish a surety bond in an amount to be determined and in a form to be approved by the board for the faithful performance of the treasurer's duties and faithful accounting of all moneys that may come into the treasurer's hands. The treasurer shall enter into the surety bond with a surety company authorized to do business in Missouri, and the cost of such bond shall be paid by the board of directors.

5. The board may accept any gift of property or money for the use and benefit of the central dispatching of emergency services, and the board is authorized to sell or exchange any such property which it believes would be to the benefit of the service so long as the proceeds are used exclusively for central dispatching of emergency services. The board shall have exclusive control of all gifts, property or money it may accept; of all interest of other proceeds which may accrue from the investment of such gifts or money or from the sale of such property; of all tax revenues collected by the county on behalf of the central dispatching of emergency services; and of all other funds granted, appropriated or loaned to it by the federal government, the state or its political subdivisions so long as such resources are used solely

to benefit the central dispatching of emergency services.

6. Any board member may, following notice and an opportunity to be heard, be removed from any office by a majority vote of the other members of the board for any of the following reasons:

(1) Failure to attend five consecutive meetings, without good cause;

(2) Conduct prejudicial to the good order and efficient operation of the central dispatching of emergency services; or

(3) Neglect of duty.

7. The chairperson of the board shall preside at such removal hearing, unless the chairperson is the person sought to be removed, in which case the hearing shall be presided over by another member elected by a majority vote of the other board members. All interested parties may present testimony and arguments at such hearing, and the witnesses shall be sworn in by oath or affirmation before testifying. Any interested party may, at his or her own expense, record the proceedings.

8. Vacancies on the board occasioned by removals, resignations or otherwise, shall be filled by the remaining members of the board. The appointee or appointees shall act until the next election at which a director or directors are elected to serve the remainder of the unexpired term.

9. Individual board members shall not be eligible for employment by the board within twelve months of termination of service as a member of the board.

10. No person shall be employed by the board who is related within the fourth degree by blood or by marriage to any member of the board.

**11. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in sections 190.300 to 190.341 shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2004, shall be invalid and void.**

**190.341. 1. For the purpose of purchasing any property or equipment necessary or incidental to the operation of central dispatching of emergency services, the board may borrow money and issue bonds for the payment thereof in the manner provided herein. The question of the loan shall be decided by the submission of the question to the eligible voters of the county as ordered by the board.**

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

"Shall the ..... emergency services board borrow money in the amount of ..... dollars for the purpose of ..... and issue bonds for the payment thereof?"

3. If the constitutionally required percentage of the votes cast are for the loan, the board shall, subject to the restrictions of subsection 4 of this section, be vested with the power to borrow money in the name of the board, to the amount and for the purposes specified on the ballot, and issue the bonds of the board for the payment thereof.

4. The loans authorized by this section shall not be contracted for a period longer than twenty years, and the entire amount of the loan shall at no time exceed, including the existing indebtedness of the board, in the aggregate, ten percent of the value of taxable tangible property therein, as shown by the last completed assessment for state and county purposes, the rate of interest to be agreed upon by the parties, but in no case to exceed the highest legal rate allowed by contract; when effected, it shall be the duty of the directors to direct a portion of the tax collected pursuant to section 190.335 in an amount sufficient to pay the interest on the indebtedness as it falls due, and also to constitute a sinking fund for the payment of the principal thereof within the time the principal becomes due.

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