

SECOND REGULAR SESSION
SENATE COMMITTEE SUBSTITUTE FOR
SENATE BILL NO. 826
95TH GENERAL ASSEMBLY

Reported from the Committee on Jobs, Economic Development and Local Government, April 1, 2010, with recommendation that the Senate Committee Substitute do pass.

4650S.04C

TERRY L. SPIELER, Secretary.

AN ACT

To repeal sections 115.305, 115.342, 115.346, 321.130, 321.552, and 321.711, RSMo, and to enact in lieu thereof six new sections relating to the imposition of a sales tax by ambulance and fire protection districts in certain counties.

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

Section A. Sections 115.305, 115.342, 115.346, 321.130, 321.552, and
2 321.711, RSMo, is repealed and six new sections enacted in lieu thereof, to be
3 known as sections 115.305, 115.342, 321.018, 321.130, 321.552, and 321.711, to
4 read as follows:

115.305. **With the exception of section 115.342**, this subchapter shall
2 not apply to candidates for special district offices, township offices in township
3 organization counties, or city, town and village offices; provided that, cities of the
4 fourth class, except those in a county of the first class with a charter form of
5 government and which adjoins a city not within a county, may elect, only by
6 ordinance, to hold primary elections in accordance with the provisions of sections
7 115.305 to 115.405 or in accordance with the provisions of sections 78.470, 78.480
8 and 78.510, RSMo, and the ordinance shall state which of these provisions of law
9 are being adopted.

115.342. 1. Any person who files as a candidate for election to a public
2 office shall be disqualified from participation in the election for which the
3 candidate has filed if such person is delinquent in the payment of any state
4 income taxes, **city taxes, municipal user fees**, personal property taxes, real
5 property taxes on the place of residence, as stated on the declaration of
6 candidacy, or if the person is a past or present corporate officer of any fee office

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

7 that owes any taxes to the state.

8 2. Each potential candidate for election to a public office shall file an
9 affidavit with the department of revenue and include a copy of the affidavit with
10 the declaration of candidacy required under section 115.349. Such affidavit shall
11 be in substantially the following form:

12 "AFFIRMATION OF TAX PAYMENTS:

13 I hereby declare under penalties of perjury that I am not currently aware
14 of any delinquency in the filing or payment of any state income taxes, **city taxes,**
15 **municipal user fees,** personal property taxes, real property taxes on the place
16 of residence, as stated on the declaration of candidacy, or that I am a past or
17 present corporate officer of any fee office that owes any taxes to the state, other
18 than those taxes which may be in dispute.

19 Candidate's Signature

20 Printed Name of Candidate."

21 3. Upon receipt of a complaint alleging a delinquency of the candidate in
22 the filing or payment of any state income taxes, **city taxes, municipal user**
23 **fees,** personal property taxes, real property taxes on the place of residence, as
24 stated on the declaration of candidacy, or if the person is a past or present
25 corporate officer of any fee office that owes any taxes to the state, the department
26 of revenue shall investigate such potential candidate to verify the claim contained
27 in the complaint. If the department of revenue finds a positive affirmation to be
28 false, the department shall contact the secretary of state, or the election official
29 who accepted such candidate's declaration of candidacy, and the potential
30 candidate. The department shall notify the candidate of the outstanding tax
31 owed and give the candidate thirty days to remit any such outstanding taxes
32 owed which are not the subject of dispute between the department and the
33 candidate. If the candidate fails to remit such amounts in full within thirty days,
34 the candidate shall be disqualified from participating in the current election and
35 barred from refiling for an entire election cycle even if the individual pays all of
36 the outstanding taxes that were the subject of the complaint.

321.018. **Persons contracting to provide professional legal and**
2 **accounting services for a fire protection district shall not receive**
3 **compensation after lawful termination of such contract by the**
4 **governing body of such fire protection district, except for services**
5 **actually rendered.**

321.130. 1. A person, to be qualified to serve as a director, shall be a

2 voter of the district at least one year before the election or appointment and be
3 over the age of twenty-five years; except as provided in subsections 2 and 3 of this
4 section. The person shall also be a resident of such fire protection district. In the
5 event the person is no longer a resident of the district, the person's office shall
6 be vacated, and the vacancy shall be filled as provided in section
7 321.200. Nominations and declarations of candidacy shall be filed at the
8 headquarters of the fire protection district by paying a ten dollar filing fee and
9 filing a statement under oath that such person possesses the required
10 qualifications.

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

17 3. In any fire protection district located in a county of the third or fourth
18 classification, a person to be qualified to serve as a director shall be over the age
19 of twenty-five years and shall be a voter of the district for more than one year
20 before the election or appointment, except that for the first board of directors in
21 such district, a person need only be a voter of the district for one year before the
22 election or appointment.

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

29 **5. Any director who has been found guilty of or pleads guilty to**
30 **any felony shall immediately forfeit the office.**

321.552. 1. Except in any county of the first classification with over two
2 hundred thousand inhabitants, or any county of the first classification without
3 a charter form of government and with more than seventy-three thousand seven
4 hundred but less than seventy-three thousand eight hundred inhabitants; or any
5 county of the first classification without a charter form of government and with
6 more than one hundred eighty-four thousand but less than one hundred
7 eighty-eight thousand inhabitants; or any county with a charter form of

8 government with over one million inhabitants; or any county with a charter form
9 of government with over two hundred eighty thousand inhabitants but less than
10 three hundred thousand inhabitants, the governing body of any ambulance or fire
11 protection district may impose a sales tax in an amount up to one-half of one
12 percent on all retail sales made in such ambulance or fire protection district
13 which are subject to taxation pursuant to the provisions of sections 144.010 to
14 144.525, RSMo, provided that such sales tax shall be accompanied by a reduction
15 in the district's tax rate as defined in section 137.073, RSMo. The tax authorized
16 by this section shall be in addition to any and all other sales taxes allowed by
17 law, except that no sales tax imposed pursuant to the provisions of this section
18 shall be effective unless the governing body of the ambulance or fire protection
19 district submits to the voters of such ambulance or fire protection district, at a
20 municipal or state general, primary or special election, a proposal to authorize
21 the governing body of the ambulance or fire protection district to impose a tax
22 pursuant to this section.

23 **2. Provisions of subsection 1 of this section to the contrary**
24 **notwithstanding, the governing body of any ambulance or fire**
25 **protection district which, as of August 28, 2010, has an assessed value**
26 **less than two billion five hundred million dollars and is located within**
27 **any county with a charter form of government and with more than one**
28 **million inhabitants may impose a sales tax in an amount up to one-half**
29 **of one percent on all retail sales made in such ambulance or fire**
30 **protection district which are subject to taxation pursuant to the**
31 **provisions of sections 144.010 to 144.525, provided that such sales tax**
32 **shall be accompanied by a reduction in the district's tax rate as defined**
33 **in section 137.073. The tax authorized by this section shall be in**
34 **addition to any and all other sales taxes allowed by law, except that no**
35 **sales tax imposed pursuant to the provisions of this section shall be**
36 **effective unless the governing body of the ambulance or fire protection**
37 **district submits to the voters of such ambulance or fire protection**
38 **district, at a municipal or state general, primary or special election, a**
39 **proposal to authorize the governing body of the ambulance or fire**
40 **protection district to impose a tax pursuant to this section.**

41 **3. The ballot of submission shall contain, but need not be limited to, the**
42 **following language:**

43 "Shall (insert name of ambulance or fire protection district)

44 impose a sales tax of (insert amount up to one-half) of one percent
45 for the purpose of providing revenues for the operation of the (insert
46 name of ambulance or fire protection district) and the total property tax levy on
47 properties in the (insert name of the ambulance or fire protection
48 district) shall be reduced annually by an amount which reduces property tax
49 revenues by an amount equal to fifty percent of the previous year's revenue
50 collected from this sales tax?

51 ☐ YES ☐ NO

52 If you are in favor of the question, place an "X" in the box opposite "YES". If you
53 are opposed to the question, place an "X" in the box opposite "NO".

54 [3.] 4. If a majority of the votes cast on the proposal by the qualified
55 voters voting thereon are in favor of the proposal, then the sales tax authorized
56 in this section shall be in effect and the governing body of the ambulance or fire
57 protection district shall lower the level of its tax rate by an amount which reduces
58 property tax revenues by an amount equal to fifty percent of the amount of sales
59 tax collected in the preceding year. If a majority of the votes cast by the qualified
60 voters voting are opposed to the proposal, then the governing body of the
61 ambulance or fire protection district shall not impose the sales tax authorized in
62 this section unless and until the governing body of such ambulance or fire
63 protection district resubmits a proposal to authorize the governing body of the
64 ambulance or fire protection district to impose the sales tax authorized by this
65 section and such proposal is approved by a majority of the qualified voters voting
66 thereon.

67 [4.] 5. All revenue received by a district from the tax authorized
68 pursuant to this section shall be deposited in a special trust fund, and be used
69 solely for the purposes specified in the proposal submitted pursuant to this
70 section for so long as the tax shall remain in effect.

71 [5.] 6. All sales taxes collected by the director of revenue pursuant to this
72 section, less one percent for cost of collection which shall be deposited in the
73 state's general revenue fund after payment of premiums for surety bonds as
74 provided in section 32.087, RSMo, shall be deposited in a special trust fund,
75 which is hereby created, to be known as the "Ambulance or Fire Protection
76 District Sales Tax Trust Fund". The moneys in the ambulance or fire protection
77 district sales tax trust fund shall not be deemed to be state funds and shall not
78 be commingled with any funds of the state. The director of revenue shall keep
79 accurate records of the amount of money in the trust and the amount collected in

80 each district imposing a sales tax pursuant to this section, and the records shall
81 be open to inspection by officers of the county and to the public. Not later than
82 the tenth day of each month the director of revenue shall distribute all moneys
83 deposited in the trust fund during the preceding month to the governing body of
84 the district which levied the tax; such funds shall be deposited with the board
85 treasurer of each such district.

86 [6.] 7. The director of revenue may make refunds from the amounts in
87 the trust fund and credit any district for erroneous payments and overpayments
88 made, and may redeem dishonored checks and drafts deposited to the credit of
89 such district. If any district abolishes the tax, the district shall notify the
90 director of revenue of the action at least ninety days prior to the effective date of
91 the repeal and the director of revenue may order retention in the trust fund, for
92 a period of one year, of two percent of the amount collected after receipt of such
93 notice to cover possible refunds or overpayment of the tax and to redeem
94 dishonored checks and drafts deposited to the credit of such accounts. After one
95 year has elapsed after the effective date of abolition of the tax in such district,
96 the director of revenue shall remit the balance in the account to the district and
97 close the account of that district. The director of revenue shall notify each
98 district of each instance of any amount refunded or any check redeemed from
99 receipts due the district.

100 [7.] 8. Except as modified in this section, all provisions of sections 32.085
101 and 32.087, RSMo, shall apply to the tax imposed pursuant to this section.

102 9. Provisions of section 321.690 to the contrary notwithstanding,
103 the governing body of any ambulance or fire protection district which
104 imposes the tax authorized under subsection 2 of this section shall
105 cause the audit required under section 321.690 to be performed
106 annually. Any ambulance or fire protection district which imposes the
107 tax authorized under subsection 2 of this section shall post such
108 district's budget including balances and reserves on the district's
109 website.

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

3 2. The number of qualified signatures required in order to recall an officer
4 shall be equal in number to at least [twenty-five] **twenty** percent of the number
5 of voters who voted in the most recent gubernatorial election in that district.

6 3. Within twenty days from the filing of the recall petition the election

7 authority shall determine whether or not the petition was signed by the required
8 number of qualified signatures. The election authority shall file with the petition
9 a certificate showing the results of the examination. The authority shall give the
10 proponents a copy of the certificate upon their request.

11 4. If the election authority certifies the petition to be insufficient, it may
12 be supplemented within ten days of the date of certificate by filing additional
13 petition sections containing all of the information required by section 321.709 and
14 this section. Within ten days after the supplemental copies are filed, the election
15 authority shall file with it a certificate stating whether or not the petition as
16 supplemented is sufficient.

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

2 [115.346. Notwithstanding any other provisions of law to
3 the contrary, no person shall be certified as a candidate for a
4 municipal office, nor shall such person's name appear on the ballot
5 as a candidate for such office, who shall be in arrears for any
6 unpaid city taxes or municipal user fees on the last day to file a
declaration of candidacy for the office.]

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