

FIRST REGULAR SESSION

SENATE BILL NO. 210

96TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR LEMBKE.

Read 1st time February 1, 2011, and ordered printed.

TERRY L. SPIELER, Secretary.

1182S.011

AN ACT

To repeal section 137.073, RSMo, and to enact in lieu thereof one new section relating to property tax levy revisions.

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

Section A. Section 137.073, RSMo, is repealed and one new section
2 enacted in lieu thereof, to be known as section 137.073, to read as follows:

137.073. 1. As used in this section, the following terms mean:

2 (1) "General reassessment", changes in value, entered in the assessor's
3 books, of a substantial portion of the parcels of real property within a county
4 resulting wholly or partly from reappraisal of value or other actions of the
5 assessor or county equalization body or ordered by the state tax commission or
6 any court;

7 (2) "Tax rate", "rate", or "rate of levy", singular or plural, includes the tax
8 rate for each purpose of taxation of property a taxing authority is authorized to
9 levy without a vote and any tax rate authorized by election, including bond
10 interest and sinking fund;

11 (3) "Tax rate ceiling", a tax rate as revised by the taxing authority to
12 comply with the provisions of this section or when a court has determined the tax
13 rate; except that, other provisions of law to the contrary notwithstanding, a school
14 district may levy the operating levy for school purposes required for the current
15 year pursuant to subsection 2 of section 163.021, less all adjustments required
16 pursuant to article X, section 22 of the Missouri Constitution, if such tax rate
17 does not exceed the highest tax rate in effect subsequent to the 1980 tax
18 year. This is the maximum tax rate that may be levied, unless a higher tax rate
19 ceiling is approved by voters of the political subdivision as provided in this
20 section;

21 (4) "Tax revenue", when referring to the previous year, means the actual
22 receipts from ad valorem levies on all classes of property, including state-assessed
23 property, in the immediately preceding fiscal year of the political subdivision,
24 plus an allowance for taxes billed but not collected in the fiscal year and plus an
25 additional allowance for the revenue which would have been collected from
26 property which was annexed by such political subdivision but which was not
27 previously used in determining tax revenue pursuant to this section. The term
28 "tax revenue" shall not include any receipts from ad valorem levies on any
29 property of a railroad corporation or a public utility, as these terms are defined
30 in section 386.020, which were assessed by the assessor of a county or city in the
31 previous year but are assessed by the state tax commission in the current year.
32 All school districts and those counties levying sales taxes pursuant to chapter 67
33 shall include in the calculation of tax revenue an amount equivalent to that by
34 which they reduced property tax levies as a result of sales tax pursuant to section
35 67.505 and section 164.013 or as excess home dock city or county fees as provided
36 in subsection 4 of section 313.820 in the immediately preceding fiscal year but not
37 including any amount calculated to adjust for prior years. For purposes of
38 political subdivisions which were authorized to levy a tax in the prior year but
39 which did not levy such tax or levied a reduced rate, the term "tax revenue", as
40 used in relation to the revision of tax levies mandated by law, shall mean the
41 revenues equal to the amount that would have been available if the voluntary
42 rate reduction had not been made.

43 2. Whenever changes in assessed valuation are entered in the assessor's
44 books for any personal property, in the aggregate, or for any subclass of real
45 property as such subclasses are established in section 4(b) of article X of the
46 Missouri Constitution and defined in section 137.016, the county clerk in all
47 counties and the assessor of St. Louis City shall notify each political subdivision
48 wholly or partially within the county or St. Louis City of the change in valuation
49 of each subclass of real property, individually, and personal property, in the
50 aggregate, exclusive of new construction and improvements. All political
51 subdivisions shall immediately revise the applicable rates of levy for each purpose
52 for each subclass of real property, individually, and personal property, in the
53 aggregate, for which taxes are levied to the extent necessary to produce from all
54 taxable property, exclusive of new construction and improvements, substantially
55 the same amount of tax revenue as was produced in the previous year for each
56 subclass of real property, individually, and personal property, in the aggregate,

57 except that the rate may not exceed the most recent voter-approved rate. Such
58 tax revenue shall not include any receipts from ad valorem levies on any real
59 property which was assessed by the assessor of a county or city in such previous
60 year but is assessed by the assessor of a county or city in the current year in a
61 different subclass of real property. Where the taxing authority is a school district
62 for the purposes of revising the applicable rates of levy for each subclass of real
63 property, the tax revenues from state-assessed railroad and utility property shall
64 be apportioned and attributed to each subclass of real property based on the
65 percentage of the total assessed valuation of the county that each subclass of real
66 property represents in the current taxable year. As provided in section 22 of
67 article X of the constitution, a political subdivision may also revise each levy to
68 allow for inflationary assessment growth occurring within the political
69 subdivision. The inflationary growth factor for any such subclass of real property
70 or personal property shall be limited to the actual assessment growth in such
71 subclass or class, exclusive of new construction and improvements, and exclusive
72 of the assessed value on any real property which was assessed by the assessor of
73 a county or city in the current year in a different subclass of real property, but
74 not to exceed the consumer price index or five percent, whichever is
75 lower. Should the tax revenue of a political subdivision from the various tax
76 rates determined in this subsection be different than the tax revenue that would
77 have been determined from a single tax rate as calculated pursuant to the method
78 of calculation in this subsection prior to January 1, 2003, then the political
79 subdivision shall revise the tax rates of those subclasses of real property,
80 individually, and/or personal property, in the aggregate, in which there is a tax
81 rate reduction, pursuant to the provisions of this subsection. Such revision shall
82 yield an amount equal to such difference and shall be apportioned among such
83 subclasses of real property, individually, and/or personal property, in the
84 aggregate, based on the relative assessed valuation of the class or subclasses of
85 property experiencing a tax rate reduction. Such revision in the tax rates of each
86 class or subclass shall be made by computing the percentage of current year
87 adjusted assessed valuation of each class or subclass with a tax rate reduction to
88 the total current year adjusted assessed valuation of the class or subclasses with
89 a tax rate reduction, multiplying the resulting percentages by the revenue
90 difference between the single rate calculation and the calculations pursuant to
91 this subsection and dividing by the respective adjusted current year assessed
92 valuation of each class or subclass to determine the adjustment to the rate to be

93 levied upon each class or subclass of property. The adjustment computed herein
94 shall be multiplied by one hundred, rounded to four decimals in the manner
95 provided in this subsection, and added to the initial rate computed for each class
96 or subclass of property. **For school districts that levy separate tax rates**
97 **on each subclass of real property and personal property in the**
98 **aggregate, if voters approve a ballot that presents separate stated tax**
99 **rates to be applied to the different subclasses of real property and**
100 **personal property in the aggregate, or increases the separate rates that**
101 **may be levied on the different subclasses of real property and personal**
102 **property in the aggregate by different amounts, the tax rate that shall**
103 **be used for the single tax rate calculation shall be a blended rate,**
104 **calculated in the manner provided under subdivision (1) of subsection**
105 **6 of this section.** Notwithstanding any provision of this subsection to the
106 contrary, no revision to the rate of levy for personal property shall cause such
107 levy to increase over the levy for personal property from the prior year.

108 3. (1) Where the taxing authority is a school district, it shall be required
109 to revise the rates of levy to the extent necessary to produce from all taxable
110 property, including state-assessed railroad and utility property, which shall be
111 separately estimated in addition to other data required in complying with section
112 164.011, substantially the amount of tax revenue permitted in this section. In
113 the year following tax rate reduction, the tax rate ceiling may be adjusted to
114 offset such district's reduction in the apportionment of state school moneys due
115 to its reduced tax rate. However, in the event any school district, in calculating
116 a tax rate ceiling pursuant to this section, requiring the estimating of effects of
117 state-assessed railroad and utility valuation or loss of state aid, discovers that the
118 estimates used result in receipt of excess revenues, which would have required
119 a lower rate if the actual information had been known, the school district shall
120 reduce the tax rate ceiling in the following year to compensate for the excess
121 receipts, and the recalculated rate shall become the tax rate ceiling for purposes
122 of this section.

123 (2) For any political subdivision which experiences a reduction in the
124 amount of assessed valuation relating to a prior year, due to decisions of the state
125 tax commission or a court pursuant to sections 138.430 to 138.433, or due to
126 clerical errors or corrections in the calculation or recordation of any assessed
127 valuation:

128 (a) Such political subdivision may revise the tax rate ceiling for each

129 purpose it levies taxes to compensate for the reduction in assessed value
130 occurring after the political subdivision calculated the tax rate ceiling for the
131 particular subclass of real property or for personal property, in the aggregate, in
132 a prior year. Such revision by the political subdivision shall be made at the time
133 of the next calculation of the tax rate for the particular subclass of real property
134 or for personal property, in the aggregate, after the reduction in assessed
135 valuation has been determined and shall be calculated in a manner that results
136 in the revised tax rate ceiling being the same as it would have been had the
137 corrected or finalized assessment been available at the time of the prior
138 calculation;

139 (b) In addition, for up to three years following the determination of the
140 reduction in assessed valuation as a result of circumstances defined in this
141 subdivision, such political subdivision may levy a tax rate for each purpose it
142 levies taxes above the revised tax rate ceiling provided in paragraph (a) of this
143 subdivision to recoup any revenues it was entitled to receive had the corrected or
144 finalized assessment been available at the time of the prior calculation.

145 4. (1) In order to implement the provisions of this section and section 22
146 of article X of the Constitution of Missouri, the term "improvements" shall apply
147 to both real and personal property. In order to determine the value of new
148 construction and improvements, each county assessor shall maintain a record of
149 real property valuations in such a manner as to identify each year the increase
150 in valuation for each political subdivision in the county as a result of new
151 construction and improvements. The value of new construction and
152 improvements shall include the additional assessed value of all improvements or
153 additions to real property which were begun after and were not part of the prior
154 year's assessment, except that the additional assessed value of all improvements
155 or additions to real property which had been totally or partially exempt from ad
156 valorem taxes pursuant to sections 99.800 to 99.865, sections 135.200 to 135.255,
157 and section 353.110 shall be included in the value of new construction and
158 improvements when the property becomes totally or partially subject to
159 assessment and payment of all ad valorem taxes. The aggregate increase in
160 valuation of personal property for the current year over that of the previous year
161 is the equivalent of the new construction and improvements factor for personal
162 property. Notwithstanding any opt-out implemented pursuant to subsection 15
163 of section 137.115, the assessor shall certify the amount of new construction and
164 improvements and the amount of assessed value on any real property which was

165 assessed by the assessor of a county or city in such previous year but is assessed
166 by the assessor of a county or city in the current year in a different subclass of
167 real property separately for each of the three subclasses of real property for each
168 political subdivision to the county clerk in order that political subdivisions shall
169 have this information for the purpose of calculating tax rates pursuant to this
170 section and section 22, article X, Constitution of Missouri. In addition, the state
171 tax commission shall certify each year to each county clerk the increase in the
172 general price level as measured by the Consumer Price Index for All Urban
173 Consumers for the United States, or its successor publications, as defined and
174 officially reported by the United States Department of Labor, or its successor
175 agency. The state tax commission shall certify the increase in such index on the
176 latest twelve-month basis available on February first of each year over the
177 immediately preceding prior twelve-month period in order that political
178 subdivisions shall have this information available in setting their tax rates
179 according to law and section 22 of article X of the Constitution of Missouri. For
180 purposes of implementing the provisions of this section and section 22 of article
181 X of the Missouri Constitution, the term "property" means all taxable property,
182 including state-assessed property.

183 (2) Each political subdivision required to revise rates of levy pursuant to
184 this section or section 22 of article X of the Constitution of Missouri shall
185 calculate each tax rate it is authorized to levy and, in establishing each tax rate,
186 shall consider each provision for tax rate revision provided in this section and
187 section 22 of article X of the Constitution of Missouri, separately and without
188 regard to annual tax rate reductions provided in section 67.505 and section
189 164.013. Each political subdivision shall set each tax rate it is authorized to levy
190 using the calculation that produces the lowest tax rate ceiling. It is further the
191 intent of the general assembly, pursuant to the authority of section 10(c) of article
192 X of the Constitution of Missouri, that the provisions of such section be applicable
193 to tax rate revisions mandated pursuant to section 22 of article X of the
194 Constitution of Missouri as to reestablishing tax rates as revised in subsequent
195 years, enforcement provisions, and other provisions not in conflict with section
196 22 of article X of the Constitution of Missouri. Annual tax rate reductions
197 provided in section 67.505 and section 164.013 shall be applied to the tax rate as
198 established pursuant to this section and section 22 of article X of the Constitution
199 of Missouri, unless otherwise provided by law.

200 5. (1) In all political subdivisions, the tax rate ceiling established

201 pursuant to this section shall not be increased unless approved by a vote of the
202 people. Approval of the higher tax rate shall be by at least a majority of votes
203 cast. When a proposed higher tax rate requires approval by more than a simple
204 majority pursuant to any provision of law or the constitution, the tax rate
205 increase must receive approval by at least the majority required.

206 (2) When voters approve an increase in the tax rate, the amount of the
207 increase shall be added to the tax rate ceiling as calculated pursuant to this
208 section to the extent the total rate does not exceed any maximum rate prescribed
209 by law. If a ballot question presents a stated tax rate for approval rather than
210 describing the amount of increase in the question, the stated tax rate approved
211 shall be adjusted as provided in this section and, so adjusted, shall be the current
212 tax rate ceiling. The increased tax rate ceiling as approved shall be adjusted
213 such that when applied to the current total assessed valuation of the political
214 subdivision, excluding new construction and improvements since the date of the
215 election approving such increase, the revenue derived from the adjusted tax rate
216 ceiling is equal to the sum of: the amount of revenue which would have been
217 derived by applying the voter- approved increased tax rate ceiling to total
218 assessed valuation of the political subdivision, as most recently certified by the
219 city or county clerk on or before the date of the election in which such increase
220 is approved, increased by the percentage increase in the consumer price index, as
221 provided by law. Such adjusted tax rate ceiling may be applied to the total
222 assessed valuation of the political subdivision at the setting of the next tax rate.
223 If a ballot question presents a phased-in tax rate increase, upon voter approval,
224 each tax rate increase shall be adjusted in the manner prescribed in this section
225 to yield the sum of: the amount of revenue that would be derived by applying
226 such voter-approved increased rate to the total assessed valuation, as most
227 recently certified by the city or county clerk on or before the date of the election
228 in which such increase was approved, increased by the percentage increase in the
229 consumer price index, as provided by law, from the date of the election to the time
230 of such increase and, so adjusted, shall be the current tax rate ceiling.

231 (3) The governing body of any political subdivision may levy a tax rate
232 lower than its tax rate ceiling and may, in a nonreassessment year, increase that
233 lowered tax rate to a level not exceeding the tax rate ceiling without voter
234 approval in the manner provided under subdivision (4) of this
235 subsection. Nothing in this section shall be construed as prohibiting a political
236 subdivision from voluntarily levying a tax rate lower than that which is required

237 under the provisions of this section or from seeking voter approval of a reduction
238 to such political subdivision's tax rate ceiling.

239 (4) In a year of general reassessment, a governing body whose tax rate is
240 lower than its tax rate ceiling shall revise its tax rate pursuant to the provisions
241 of subsection 4 of this section as if its tax rate was at the tax rate ceiling. In a
242 year following general reassessment, if such governing body intends to increase
243 its tax rate, the governing body shall conduct a public hearing, and in a public
244 meeting it shall adopt an ordinance, resolution, or policy statement justifying its
245 action prior to setting and certifying its tax rate. The provisions of this
246 subdivision shall not apply to any political subdivision which levies a tax rate
247 lower than its tax rate ceiling solely due to a reduction required by law resulting
248 from sales tax collections. The provisions of this subdivision shall not apply to
249 any political subdivision which has received voter approval for an increase to its
250 tax rate ceiling subsequent to setting its most recent tax rate.

251 6. (1) For the purposes of calculating state aid for public schools pursuant
252 to section 163.031, each taxing authority which is a school district shall
253 determine its proposed tax rate as a blended rate of the classes or subclasses of
254 property. Such blended rate shall be calculated by first determining the total tax
255 revenue of the property within the jurisdiction of the taxing authority, which
256 amount shall be equal to the sum of the products of multiplying the assessed
257 valuation of each class and subclass of property by the corresponding tax rate for
258 such class or subclass, then dividing the total tax revenue by the total assessed
259 valuation of the same jurisdiction, and then multiplying the resulting quotient
260 by a factor of one hundred. Where the taxing authority is a school district, such
261 blended rate shall also be used by such school district for calculating revenue
262 from state-assessed railroad and utility property as defined in chapter 151 and
263 for apportioning the tax rate by purpose.

264 (2) Each taxing authority proposing to levy a tax rate in any year shall
265 notify the clerk of the county commission in the county or counties where the tax
266 rate applies of its tax rate ceiling and its proposed tax rate. Each taxing
267 authority shall express its proposed tax rate in a fraction equal to the nearest
268 one-tenth of a cent, unless its proposed tax rate is in excess of one dollar, then
269 one/one-hundredth of a cent. If a taxing authority shall round to one/one-
270 hundredth of a cent, it shall round up a fraction greater than or equal to
271 five/one-thousandth of one cent to the next higher one/one-hundredth of a cent;
272 if a taxing authority shall round to one-tenth of a cent, it shall round up a

273 fraction greater than or equal to five/one-hundredths of a cent to the next higher
274 one-tenth of a cent. Any taxing authority levying a property tax rate shall
275 provide data, in such form as shall be prescribed by the state auditor by rule,
276 substantiating such tax rate complies with Missouri law. All forms for the
277 calculation of rates pursuant to this section shall be promulgated as a rule and
278 shall not be incorporated by reference. The state auditor shall promulgate rules
279 for any and all forms for the calculation of rates pursuant to this section which
280 do not currently exist in rule form or that have been incorporated by reference.
281 In addition, each taxing authority proposing to levy a tax rate for debt service
282 shall provide data, in such form as shall be prescribed by the state auditor by
283 rule, substantiating the tax rate for debt service complies with Missouri law. A
284 tax rate proposed for annual debt service requirements will be prima facie valid
285 if, after making the payment for which the tax was levied, bonds remain
286 outstanding and the debt fund reserves do not exceed the following year's
287 payments. The county clerk shall keep on file and available for public inspection
288 all such information for a period of three years. The clerk shall, within three
289 days of receipt, forward a copy of the notice of a taxing authority's tax rate ceiling
290 and proposed tax rate and any substantiating data to the state auditor. The state
291 auditor shall, within fifteen days of the date of receipt, examine such information
292 and return to the county clerk his or her findings as to compliance of the tax rate
293 ceiling with this section and as to compliance of any proposed tax rate for debt
294 service with Missouri law. If the state auditor believes that a taxing authority's
295 proposed tax rate does not comply with Missouri law, then the state auditor's
296 findings shall include a recalculated tax rate, and the state auditor may request
297 a taxing authority to submit documentation supporting such taxing authority's
298 proposed tax rate. The county clerk shall immediately forward a copy of the
299 auditor's findings to the taxing authority and shall file a copy of the findings with
300 the information received from the taxing authority. The taxing authority shall
301 have fifteen days from the date of receipt from the county clerk of the state
302 auditor's findings and any request for supporting documentation to accept or
303 reject in writing the rate change certified by the state auditor and to submit all
304 requested information to the state auditor. A copy of the taxing authority's
305 acceptance or rejection and any information submitted to the state auditor shall
306 also be mailed to the county clerk. If a taxing authority rejects a rate change
307 certified by the state auditor and the state auditor does not receive supporting
308 information which justifies the taxing authority's original or any subsequent

309 proposed tax rate, then the state auditor shall refer the perceived violations of
310 such taxing authority to the attorney general's office and the attorney general is
311 authorized to obtain injunctive relief to prevent the taxing authority from levying
312 a violative tax rate.

313 7. No tax rate shall be extended on the tax rolls by the county clerk unless
314 the political subdivision has complied with the foregoing provisions of this
315 section.

316 8. Whenever a taxpayer has cause to believe that a taxing authority has
317 not complied with the provisions of this section, the taxpayer may make a formal
318 complaint with the prosecuting attorney of the county. Where the prosecuting
319 attorney fails to bring an action within ten days of the filing of the complaint, the
320 taxpayer may bring a civil action pursuant to this section and institute an action
321 as representative of a class of all taxpayers within a taxing authority if the class
322 is so numerous that joinder of all members is impracticable, if there are questions
323 of law or fact common to the class, if the claims or defenses of the representative
324 parties are typical of the claims or defenses of the class, and if the representative
325 parties will fairly and adequately protect the interests of the class. In any class
326 action maintained pursuant to this section, the court may direct to the members
327 of the class a notice to be published at least once each week for four consecutive
328 weeks in a newspaper of general circulation published in the county where the
329 civil action is commenced and in other counties within the jurisdiction of a taxing
330 authority. The notice shall advise each member that the court will exclude him
331 or her from the class if he or she so requests by a specified date, that the
332 judgment, whether favorable or not, will include all members who do not request
333 exclusion, and that any member who does not request exclusion may, if he or she
334 desires, enter an appearance. In any class action brought pursuant to this
335 section, the court, in addition to the relief requested, shall assess against the
336 taxing authority found to be in violation of this section the reasonable costs of
337 bringing the action, including reasonable attorney's fees, provided no attorney's
338 fees shall be awarded any attorney or association of attorneys who receive public
339 funds from any source for their services. Any action brought pursuant to this
340 section shall be set for hearing as soon as practicable after the cause is at issue.

341 9. If in any action, including a class action, the court issues an order
342 requiring a taxing authority to revise the tax rates as provided in this section or
343 enjoins a taxing authority from the collection of a tax because of its failure to
344 revise the rate of levy as provided in this section, any taxpayer paying his or her

345 taxes when an improper rate is applied has erroneously paid his or her taxes in
346 part, whether or not the taxes are paid under protest as provided in section
347 139.031 or otherwise contested. The part of the taxes paid erroneously is the
348 difference in the amount produced by the original levy and the amount produced
349 by the revised levy. The township or county collector of taxes or the collector of
350 taxes in any city shall refund the amount of the tax erroneously paid. The taxing
351 authority refusing to revise the rate of levy as provided in this section shall make
352 available to the collector all funds necessary to make refunds pursuant to this
353 subsection. No taxpayer shall receive any interest on any money erroneously paid
354 by him or her pursuant to this subsection. Effective in the 1994 tax year, nothing
355 in this section shall be construed to require a taxing authority to refund any tax
356 erroneously paid prior to or during the third tax year preceding the current tax
357 year.

358 10. Any rule or portion of a rule, as that term is defined in section
359 536.010, that is created under the authority delegated in this section shall
360 become effective only if it complies with and is subject to all of the provisions of
361 chapter 536 and, if applicable, section 536.028. This section and chapter 536 are
362 nonseverable and if any of the powers vested with the general assembly pursuant
363 to chapter 536 to review, to delay the effective date, or to disapprove and annul
364 a rule are subsequently held unconstitutional, then the grant of rulemaking
365 authority and any rule proposed or adopted after August 28, 2004, shall be
366 invalid and void.

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