

FIRST REGULAR SESSION
SENATE COMMITTEE SUBSTITUTE FOR
HOUSE COMMITTEE SUBSTITUTE FOR
HOUSE BILL NO. 506
96TH GENERAL ASSEMBLY

Reported from the Committee on Ways and Means and Fiscal Oversight, May 10, 2011, with recommendation that the Senate Committee Substitute do pass.

1489S.03C

TERRY L. SPIELER, Secretary.

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Section A. Section 137.073, RSMo, is repealed and one new section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

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

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] **shall not exceed the greater of the most recent**
58 **voter-approved rate or the most recent voter-approved rate as adjusted**
59 **under subdivision (2) of subsection 5 of this section. Any political**
60 **subdivision that has received approval from voters for a tax increase**
61 **after August 27, 2008, may levy a rate to collect substantially the same**
62 **amount of tax revenue as the amount of revenue that would have been**
63 **derived by applying the voter-approved increased tax rate ceiling to**
64 **the total assessed valuation of the political subdivision as most recently**
65 **certified by the city or county clerk on or before the date of the**
66 **election in which such increase is approved, increased by the**
67 **percentage increase in the consumer price index, as provided by law,**
68 **except that the rate shall not exceed the greater of the most recent**
69 **voter-approved rate or the most recent voter-approved rate as adjusted**
70 **under subdivision (2) of subsection 5 of this section.** Such tax revenue
71 shall not include any receipts from ad valorem levies on any real property which
72 was assessed by the assessor of a county or city in such previous year but is
73 assessed by the assessor of a county or city in the current year in a different
74 subclass of real property. Where the taxing authority is a school district for the
75 purposes of revising the applicable rates of levy for each subclass of real property,
76 the tax revenues from state-assessed railroad and utility property shall be
77 apportioned and attributed to each subclass of real property based on the
78 percentage of the total assessed valuation of the county that each subclass of real
79 property represents in the current taxable year. As provided in section 22 of
80 article X of the constitution, a political subdivision may also revise each levy to
81 allow for inflationary assessment growth occurring within the political
82 subdivision. The inflationary growth factor for any such subclass of real property
83 or personal property shall be limited to the actual assessment growth in such
84 subclass or class, exclusive of new construction and improvements, and exclusive
85 of the assessed value on any real property which was assessed by the assessor of
86 a county or city in the current year in a different subclass of real property, but
87 not to exceed the consumer price index or five percent, whichever is
88 lower. Should the tax revenue of a political subdivision from the various tax
89 rates determined in this subsection be different than the tax revenue that would

90 have been determined from a single tax rate as calculated pursuant to the method
91 of calculation in this subsection prior to January 1, 2003, then the political
92 subdivision shall revise the tax rates of those subclasses of real property,
93 individually, and/or personal property, in the aggregate, in which there is a tax
94 rate reduction, pursuant to the provisions of this subsection. Such revision shall
95 yield an amount equal to such difference and shall be apportioned among such
96 subclasses of real property, individually, and/or personal property, in the
97 aggregate, based on the relative assessed valuation of the class or subclasses of
98 property experiencing a tax rate reduction. Such revision in the tax rates of each
99 class or subclass shall be made by computing the percentage of current year
100 adjusted assessed valuation of each class or subclass with a tax rate reduction to
101 the total current year adjusted assessed valuation of the class or subclasses with
102 a tax rate reduction, multiplying the resulting percentages by the revenue
103 difference between the single rate calculation and the calculations pursuant to
104 this subsection and dividing by the respective adjusted current year assessed
105 valuation of each class or subclass to determine the adjustment to the rate to be
106 levied upon each class or subclass of property. The adjustment computed herein
107 shall be multiplied by one hundred, rounded to four decimals in the manner
108 provided in this subsection, and added to the initial rate computed for each class
109 or subclass of property. **For school districts that levy separate tax rates**
110 **on each subclass of real property and personal property in the**
111 **aggregate, if voters approved a ballot before January 1, 2011, that**
112 **presented separate stated tax rates to be applied to the different**
113 **subclasses of real property and personal property in the aggregate, or**
114 **increases the separate rates that may be levied on the different**
115 **subclasses of real property and personal property in the aggregate by**
116 **different amounts, the tax rate that shall be used for the single tax rate**
117 **calculation shall be a blended rate, calculated in the manner provided**
118 **under subdivision (1) of subsection 6 of this section.** Notwithstanding any
119 provision of this subsection to the contrary, no revision to the rate of levy for
120 personal property shall cause such levy to increase over the levy for personal
121 property from the prior year.

122 3. (1) Where the taxing authority is a school district, it shall be required
123 to revise the rates of levy to the extent necessary to produce from all taxable
124 property, including state-assessed railroad and utility property, which shall be
125 separately estimated in addition to other data required in complying with section

126 164.011, substantially the amount of tax revenue permitted in this section. In
127 the year following tax rate reduction, the tax rate ceiling may be adjusted to
128 offset such district's reduction in the apportionment of state school moneys due
129 to its reduced tax rate. However, in the event any school district, in calculating
130 a tax rate ceiling pursuant to this section, requiring the estimating of effects of
131 state-assessed railroad and utility valuation or loss of state aid, discovers that the
132 estimates used result in receipt of excess revenues, which would have required
133 a lower rate if the actual information had been known, the school district shall
134 reduce the tax rate ceiling in the following year to compensate for the excess
135 receipts, and the recalculated rate shall become the tax rate ceiling for purposes
136 of this section.

137 (2) For any political subdivision which experiences a reduction in the
138 amount of assessed valuation relating to a prior year, due to decisions of the state
139 tax commission or a court pursuant to sections 138.430 to 138.433, or due to
140 clerical errors or corrections in the calculation or recordation of any assessed
141 valuation:

142 (a) Such political subdivision may revise the tax rate ceiling for each
143 purpose it levies taxes to compensate for the reduction in assessed value
144 occurring after the political subdivision calculated the tax rate ceiling for the
145 particular subclass of real property or for personal property, in the aggregate, in
146 a prior year. Such revision by the political subdivision shall be made at the time
147 of the next calculation of the tax rate for the particular subclass of real property
148 or for personal property, in the aggregate, after the reduction in assessed
149 valuation has been determined and shall be calculated in a manner that results
150 in the revised tax rate ceiling being the same as it would have been had the
151 corrected or finalized assessment been available at the time of the prior
152 calculation;

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

159 4. (1) In order to implement the provisions of this section and section 22
160 of article X of the Constitution of Missouri, the term "improvements" shall apply
161 to both real and personal property. In order to determine the value of new

162 construction and improvements, each county assessor shall maintain a record of
163 real property valuations in such a manner as to identify each year the increase
164 in valuation for each political subdivision in the county as a result of new
165 construction and improvements. The value of new construction and
166 improvements shall include the additional assessed value of all improvements or
167 additions to real property which were begun after and were not part of the prior
168 year's assessment, except that the additional assessed value of all improvements
169 or additions to real property which had been totally or partially exempt from ad
170 valorem taxes pursuant to sections 99.800 to 99.865, sections 135.200 to 135.255,
171 and section 353.110 shall be included in the value of new construction and
172 improvements when the property becomes totally or partially subject to
173 assessment and payment of all ad valorem taxes. The aggregate increase in
174 valuation of personal property for the current year over that of the previous year
175 is the equivalent of the new construction and improvements factor for personal
176 property. Notwithstanding any opt-out implemented pursuant to subsection 15
177 of section 137.115, the assessor shall certify the amount of new construction and
178 improvements and the amount of assessed value on any real property which was
179 assessed by the assessor of a county or city in such previous year but is assessed
180 by the assessor of a county or city in the current year in a different subclass of
181 real property separately for each of the three subclasses of real property for each
182 political subdivision to the county clerk in order that political subdivisions shall
183 have this information for the purpose of calculating tax rates pursuant to this
184 section and section 22, article X, Constitution of Missouri. In addition, the state
185 tax commission shall certify each year to each county clerk the increase in the
186 general price level as measured by the Consumer Price Index for All Urban
187 Consumers for the United States, or its successor publications, as defined and
188 officially reported by the United States Department of Labor, or its successor
189 agency. The state tax commission shall certify the increase in such index on the
190 latest twelve-month basis available on February first of each year over the
191 immediately preceding prior twelve-month period in order that political
192 subdivisions shall have this information available in setting their tax rates
193 according to law and section 22 of article X of the Constitution of Missouri. For
194 purposes of implementing the provisions of this section and section 22 of article
195 X of the Missouri Constitution, the term "property" means all taxable property,
196 including state-assessed property.

197 (2) Each political subdivision required to revise rates of levy pursuant to

198 this section or section 22 of article X of the Constitution of Missouri shall
199 calculate each tax rate it is authorized to levy and, in establishing each tax rate,
200 shall consider each provision for tax rate revision provided in this section and
201 section 22 of article X of the Constitution of Missouri, separately and without
202 regard to annual tax rate reductions provided in section 67.505 and section
203 164.013. Each political subdivision shall set each tax rate it is authorized to levy
204 using the calculation that produces the lowest tax rate ceiling. It is further the
205 intent of the general assembly, pursuant to the authority of section 10(c) of article
206 X of the Constitution of Missouri, that the provisions of such section be applicable
207 to tax rate revisions mandated pursuant to section 22 of article X of the
208 Constitution of Missouri as to reestablishing tax rates as revised in subsequent
209 years, enforcement provisions, and other provisions not in conflict with section
210 22 of article X of the Constitution of Missouri. Annual tax rate reductions
211 provided in section 67.505 and section 164.013 shall be applied to the tax rate as
212 established pursuant to this section and section 22 of article X of the Constitution
213 of Missouri, unless otherwise provided by law.

214 5. (1) In all political subdivisions, the tax rate ceiling established
215 pursuant to this section shall not be increased unless approved by a vote of the
216 people. Approval of the higher tax rate shall be by at least a majority of votes
217 cast. When a proposed higher tax rate requires approval by more than a simple
218 majority pursuant to any provision of law or the constitution, the tax rate
219 increase must receive approval by at least the majority required.

220 (2) When voters approve an increase in the tax rate, the amount of the
221 increase shall be added to the tax rate ceiling as calculated pursuant to this
222 section to the extent the total rate does not exceed any maximum rate prescribed
223 by law. If a ballot question presents a stated tax rate for approval rather than
224 describing the amount of increase in the question, the stated tax rate approved
225 shall be adjusted as provided in this section and, so adjusted, shall be the current
226 tax rate ceiling. The increased tax rate ceiling as approved shall be adjusted
227 such that when applied to the current total assessed valuation of the political
228 subdivision, excluding new construction and improvements since the date of the
229 election approving such increase, the revenue derived from the adjusted tax rate
230 ceiling is equal to the sum of: the amount of revenue which would have been
231 derived by applying the voter-approved increased tax rate ceiling to total assessed
232 valuation of the political subdivision, as most recently certified by the city or
233 county clerk on or before the date of the election in which such increase is

234 approved, increased by the percentage increase in the consumer price index, as
235 provided by law. Such adjusted tax rate ceiling may be applied to the total
236 assessed valuation of the political subdivision at the setting of the next tax rate.
237 If a ballot question presents a phased-in tax rate increase, upon voter approval,
238 each tax rate increase shall be adjusted in the manner prescribed in this section
239 to yield the sum of: the amount of revenue that would be derived by applying
240 such voter-approved increased rate to the total assessed valuation, as most
241 recently certified by the city or county clerk on or before the date of the election
242 in which such increase was approved, increased by the percentage increase in the
243 consumer price index, as provided by law, from the date of the election to the time
244 of such increase and, so adjusted, shall be the current tax rate ceiling.

245 (3) The governing body of any political subdivision may levy a tax rate
246 lower than its tax rate ceiling and may, in a nonreassessment year, increase that
247 lowered tax rate to a level not exceeding the tax rate ceiling without voter
248 approval in the manner provided under subdivision (4) of this
249 subsection. Nothing in this section shall be construed as prohibiting a political
250 subdivision from voluntarily levying a tax rate lower than that which is required
251 under the provisions of this section or from seeking voter approval of a reduction
252 to such political subdivision's tax rate ceiling.

253 (4) In a year of general reassessment, a governing body whose tax rate is
254 lower than its tax rate ceiling shall revise its tax rate pursuant to the provisions
255 of subsection 4 of this section as if its tax rate was at the tax rate ceiling. In a
256 year following general reassessment, if such governing body intends to increase
257 its tax rate, the governing body shall conduct a public hearing, and in a public
258 meeting it shall adopt an ordinance, resolution, or policy statement justifying its
259 action prior to setting and certifying its tax rate. The provisions of this
260 subdivision shall not apply to any political subdivision which levies a tax rate
261 lower than its tax rate ceiling solely due to a reduction required by law resulting
262 from sales tax collections. The provisions of this subdivision shall not apply to
263 any political subdivision which has received voter approval for an increase to its
264 tax rate ceiling subsequent to setting its most recent tax rate.

265 6. (1) For the purposes of calculating state aid for public schools pursuant
266 to section 163.031, each taxing authority which is a school district shall
267 determine its proposed tax rate as a blended rate of the classes or subclasses of
268 property. Such blended rate shall be calculated by first determining the total tax
269 revenue of the property within the jurisdiction of the taxing authority, which

270 amount shall be equal to the sum of the products of multiplying the assessed
271 valuation of each class and subclass of property by the corresponding tax rate for
272 such class or subclass, then dividing the total tax revenue by the total assessed
273 valuation of the same jurisdiction, and then multiplying the resulting quotient
274 by a factor of one hundred. Where the taxing authority is a school district, such
275 blended rate shall also be used by such school district for calculating revenue
276 from state-assessed railroad and utility property as defined in chapter 151 and
277 for apportioning the tax rate by purpose.

278 (2) Each taxing authority proposing to levy a tax rate in any year shall
279 notify the clerk of the county commission in the county or counties where the tax
280 rate applies of its tax rate ceiling and its proposed tax rate. Each taxing
281 authority shall express its proposed tax rate in a fraction equal to the nearest
282 one-tenth of a cent, unless its proposed tax rate is in excess of one dollar, then
283 one/one-hundredth of a cent. If a taxing authority shall round to
284 one/one-hundredth of a cent, it shall round up a fraction greater than or equal to
285 five/one-thousandth of one cent to the next higher one/one-hundredth of a cent;
286 if a taxing authority shall round to one-tenth of a cent, it shall round up a
287 fraction greater than or equal to five/one-hundredths of a cent to the next higher
288 one-tenth of a cent. Any taxing authority levying a property tax rate shall
289 provide data, in such form as shall be prescribed by the state auditor by rule,
290 substantiating such tax rate complies with Missouri law. All forms for the
291 calculation of rates pursuant to this section shall be promulgated as a rule and
292 shall not be incorporated by reference. The state auditor shall promulgate rules
293 for any and all forms for the calculation of rates pursuant to this section which
294 do not currently exist in rule form or that have been incorporated by reference.
295 In addition, each taxing authority proposing to levy a tax rate for debt service
296 shall provide data, in such form as shall be prescribed by the state auditor by
297 rule, substantiating the tax rate for debt service complies with Missouri law. A
298 tax rate proposed for annual debt service requirements will be prima facie valid
299 if, after making the payment for which the tax was levied, bonds remain
300 outstanding and the debt fund reserves do not exceed the following year's
301 payments. The county clerk shall keep on file and available for public inspection
302 all such information for a period of three years. The clerk shall, within three
303 days of receipt, forward a copy of the notice of a taxing authority's tax rate ceiling
304 and proposed tax rate and any substantiating data to the state auditor. The state
305 auditor shall, within fifteen days of the date of receipt, examine such information

306 and return to the county clerk his or her findings as to compliance of the tax rate
307 ceiling with this section and as to compliance of any proposed tax rate for debt
308 service with Missouri law. If the state auditor believes that a taxing authority's
309 proposed tax rate does not comply with Missouri law, then the state auditor's
310 findings shall include a recalculated tax rate, and the state auditor may request
311 a taxing authority to submit documentation supporting such taxing authority's
312 proposed tax rate. The county clerk shall immediately forward a copy of the
313 auditor's findings to the taxing authority and shall file a copy of the findings with
314 the information received from the taxing authority. The taxing authority shall
315 have fifteen days from the date of receipt from the county clerk of the state
316 auditor's findings and any request for supporting documentation to accept or
317 reject in writing the rate change certified by the state auditor and to submit all
318 requested information to the state auditor. A copy of the taxing authority's
319 acceptance or rejection and any information submitted to the state auditor shall
320 also be mailed to the county clerk. If a taxing authority rejects a rate change
321 certified by the state auditor and the state auditor does not receive supporting
322 information which justifies the taxing authority's original or any subsequent
323 proposed tax rate, then the state auditor shall refer the perceived violations of
324 such taxing authority to the attorney general's office and the attorney general is
325 authorized to obtain injunctive relief to prevent the taxing authority from levying
326 a violative tax rate.

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

330 8. Whenever a taxpayer has cause to believe that a taxing authority has
331 not complied with the provisions of this section, the taxpayer may make a formal
332 complaint with the prosecuting attorney of the county. Where the prosecuting
333 attorney fails to bring an action within ten days of the filing of the complaint, the
334 taxpayer may bring a civil action pursuant to this section and institute an action
335 as representative of a class of all taxpayers within a taxing authority if the class
336 is so numerous that joinder of all members is impracticable, if there are questions
337 of law or fact common to the class, if the claims or defenses of the representative
338 parties are typical of the claims or defenses of the class, and if the representative
339 parties will fairly and adequately protect the interests of the class. In any class
340 action maintained pursuant to this section, the court may direct to the members
341 of the class a notice to be published at least once each week for four consecutive

342 weeks in a newspaper of general circulation published in the county where the
343 civil action is commenced and in other counties within the jurisdiction of a taxing
344 authority. The notice shall advise each member that the court will exclude him
345 or her from the class if he or she so requests by a specified date, that the
346 judgment, whether favorable or not, will include all members who do not request
347 exclusion, and that any member who does not request exclusion may, if he or she
348 desires, enter an appearance. In any class action brought pursuant to this
349 section, the court, in addition to the relief requested, shall assess against the
350 taxing authority found to be in violation of this section the reasonable costs of
351 bringing the action, including reasonable attorney's fees, provided no attorney's
352 fees shall be awarded any attorney or association of attorneys who receive public
353 funds from any source for their services. Any action brought pursuant to this
354 section shall be set for hearing as soon as practicable after the cause is at issue.

355 9. If in any action, including a class action, the court issues an order
356 requiring a taxing authority to revise the tax rates as provided in this section or
357 enjoins a taxing authority from the collection of a tax because of its failure to
358 revise the rate of levy as provided in this section, any taxpayer paying his or her
359 taxes when an improper rate is applied has erroneously paid his or her taxes in
360 part, whether or not the taxes are paid under protest as provided in section
361 139.031 or otherwise contested. The part of the taxes paid erroneously is the
362 difference in the amount produced by the original levy and the amount produced
363 by the revised levy. The township or county collector of taxes or the collector of
364 taxes in any city shall refund the amount of the tax erroneously paid. The taxing
365 authority refusing to revise the rate of levy as provided in this section shall make
366 available to the collector all funds necessary to make refunds pursuant to this
367 subsection. No taxpayer shall receive any interest on any money erroneously paid
368 by him or her pursuant to this subsection. Effective in the 1994 tax year, nothing
369 in this section shall be construed to require a taxing authority to refund any tax
370 erroneously paid prior to or during the third tax year preceding the current tax
371 year.

372 10. Any rule or portion of a rule, as that term is defined in section
373 536.010, that is created under the authority delegated in this section shall
374 become effective only if it complies with and is subject to all of the provisions of
375 chapter 536 and, if applicable, section 536.028. This section and chapter 536 are
376 nonseverable and if any of the powers vested with the general assembly pursuant
377 to chapter 536 to review, to delay the effective date, or to disapprove and annul

378 a rule are subsequently held unconstitutional, then the grant of rulemaking
379 authority and any rule proposed or adopted after August 28, 2004, shall be
380 invalid and void.

✓

Unofficial

Bill

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