

SECOND REGULAR SESSION
[P E R F E C T E D]
SENATE SUBSTITUTE FOR
SENATE COMMITTEE SUBSTITUTE FOR
SENATE BILL NO. 572
98TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR SCHMITT.

Offered January 26, 2016.

Senate Substitute adopted, January 26, 2016.

Taken up for Perfection January 26, 2016. Bill declared Perfected and Ordered Printed, as amended.

ADRIANE D. CROUSE, Secretary.

4953S.07P

AN ACT

To repeal sections 479.350, 479.353, 479.359, 479.360, and 479.368, RSMo, and to enact in lieu thereof six new sections relating to municipal courts.

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

Section A. Sections 479.350, 479.353, 479.359, 479.360, and 479.368, RSMo, are repealed and six new sections enacted in lieu thereof, to be known as sections 71.980, 479.350, 479.353, 479.359, 479.360, and 479.368, to read as follows:

71.980. Notwithstanding any provision to the contrary, the state shall not be held liable for the debts of a municipality that is financially insolvent. For purposes of this section, a municipality is financially insolvent if it is not paying its debts as they become due, unless such debts are the subject of a bona fide dispute, or is unable to pay its debts as they become due.

479.350. For purposes of sections 479.350 to 479.372, the following terms mean:

(1) "Annual general operating revenue", revenue that can be used to pay any bill or obligation of a county, city, town, or village, including general sales tax; general use tax; general property tax; fees from licenses and permits; unrestricted user fees; fines, court costs, bond forfeitures, and penalties. Annual general operating revenue does not include designated sales or use taxes;

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

8 restricted user fees; grant funds; funds expended by a political subdivision for
9 technological assistance in collecting, storing, and disseminating criminal history
10 record information and facilitating criminal identification activities for the
11 purpose of sharing criminal justice-related information among political
12 subdivisions; or other revenue designated for a specific purpose;

13 (2) "Court costs", costs, fees, or surcharges which are retained by a county,
14 city, town, or village upon a finding of guilty or plea of guilty, and shall exclude
15 any costs, fees, or surcharges disbursed to the state or other entities by a county,
16 city, town, or village;

17 (3) "Minor traffic violation", a municipal or county **traffic** ordinance
18 violation prosecuted that does not involve an accident or injury, that does not
19 involve the operation of a commercial motor vehicle, and for which **no points are**
20 **assessed by the department of revenue or** the department of revenue is
21 authorized to assess [no more than] **one to** four points to a person's driving
22 record upon conviction. **Minor traffic violation shall include amended**
23 **charges for any minor traffic violation.** Minor traffic violation shall exclude
24 a violation for exceeding the speed limit by more than nineteen miles per hour or
25 a violation occurring within a construction zone or school zone;

26 (4) "**Municipal ordinance violation**", a **municipal or county**
27 **ordinance violation prosecuted for which penalties are authorized by**
28 **statute under sections 64.160, 64.200, 64.295, 64.487, 64.690, 64.895,**
29 **67.398, 71.285, 89.120, and 89.490.** **Municipal ordinance violation shall**
30 **include amended charges for municipal ordinance violations.**

479.353. **Notwithstanding any provisions to the contrary,** the
2 following conditions shall apply to minor traffic violations **and municipal**
3 **ordinance violations:**

4 (1) The court shall not assess a fine, if combined with the amount of court
5 costs, totaling in excess of [three] **two** hundred dollars;

6 (2) The court shall not sentence a person to confinement, except the court
7 may sentence a person to confinement for violations involving alcohol or
8 controlled substances, violations endangering the health or welfare of others, and
9 eluding or giving false information to a law enforcement officer;

10 (3) A person shall not be placed in confinement for failure to pay a fine
11 unless such nonpayment violates terms of probation;

12 (4) Court costs that apply shall be assessed against the defendant unless
13 the court finds that the defendant is indigent based on standards set forth in

14 determining such by the presiding judge of the circuit. Such standards shall
15 reflect model rules and requirements to be developed by the supreme court; and
16 (5) No court costs shall be assessed if **the defendant is found to be**
17 **indigent under subdivision (4) of this section or if** the case is dismissed.

479.359. 1. Every county, city, town, and village shall annually calculate
2 the percentage of its annual general operating revenue received from fines, bond
3 forfeitures, and court costs for **municipal ordinance violations and** minor
4 traffic violations, including amended charges for any **municipal ordinance**
5 **violations and** minor traffic violations, whether the violation was prosecuted in
6 municipal court, associate circuit court, or circuit court, occurring within the
7 county, city, town, or village. If the percentage is more than thirty percent, the
8 excess amount shall be sent to the director of the department of revenue. The
9 director of the department of revenue shall set forth by rule a procedure whereby
10 excess revenues as set forth in this section shall be sent to the department of
11 revenue. The department of revenue shall distribute these moneys annually to
12 the schools of the county in the same manner that proceeds of all fines collected
13 for any breach of the penal laws of this state are distributed.

14 2. Beginning January 1, 2016, the percentage specified in subsection 1 of
15 this section shall be reduced from thirty percent to twenty percent, unless any
16 county, city, town, or village has a fiscal year beginning on any date other than
17 January first, in which case the reduction shall begin on the first day of the
18 immediately following fiscal year except that any county with a charter form of
19 government and with more than nine hundred fifty thousand inhabitants and any
20 city, town, or village with boundaries found within such county shall be reduced
21 from thirty percent to twelve and one-half percent.

22 3. An addendum to the annual financial report submitted to the state
23 auditor by the county, city, town, or village under section 105.145 shall contain
24 an accounting of:

25 (1) Annual general operating revenue as defined in section 479.350;

26 (2) The total revenues from fines, bond forfeitures, and court costs for
27 **municipal ordinance violations and** minor traffic violations occurring within
28 the county, city, town, or village, including amended charges from any **municipal**
29 **ordinance violations and** minor traffic violations;

30 (3) The percent of annual general operating revenue from fines, bond
31 forfeitures, and court costs for **municipal ordinance violations and** minor
32 traffic violations occurring within the county, city, town, or village, including

33 amended charges from any charged **municipal ordinance violations and**
34 minor traffic violation, charged in the municipal court of that county, city, town,
35 or village; and

36 (4) Said addendum shall be certified and signed by a representative with
37 knowledge of the subject matter as to the accuracy of the addendum contents,
38 under oath and under the penalty of perjury, and witnessed by a notary public.

39 4. On or before December 31, 2015, the state auditor shall set forth by
40 rule a procedure for including the addendum information required by this
41 section. The rule shall also allow reasonable opportunity for demonstration of
42 compliance without unduly burdensome calculations.

479.360. 1. Every county, city, town, and village shall file with the state
2 auditor, together with its report due under section 105.145, its certification of its
3 substantial compliance signed by its municipal judge with the municipal court
4 procedures set forth in this subsection during the preceding fiscal year. The
5 procedures to be adopted and certified include the following:

6 (1) Defendants in custody pursuant to an initial arrest warrant issued by
7 a municipal court have an opportunity to be heard by a judge in person, by
8 telephone, or video conferencing as soon as practicable and not later than
9 forty-eight hours on minor traffic violations and not later than seventy-two hours
10 on other violations and, if not given that opportunity, are released;

11 (2) Defendants in municipal custody shall not be held more than
12 twenty-four hours without a warrant after arrest;

13 (3) Defendants are not detained in order to coerce payment of fines and
14 costs;

15 (4) The municipal court has established procedures to allow indigent
16 defendants to present evidence of their financial condition and takes such
17 evidence into account if determining fines and costs and establishing related
18 payment requirements;

19 (5) The municipal court only assesses fines and costs as authorized by
20 law;

21 (6) No additional charge shall be issued for the failure to appear for a
22 minor traffic violation;

23 (7) The municipal court conducts proceedings in a courtroom that is open
24 to the public and large enough to reasonably accommodate the public, parties,
25 and attorneys;

26 (8) The municipal court makes use of alternative payment plans [and];

27 **(9) The municipal court makes use of** community service alternatives
28 **for which no associated costs are charged to the defendant;** and

29 [(9)] **(10)** The municipal court has adopted an electronic payment system
30 or payment by mail for the payment of minor traffic violations.

31 2. On or before December 31, 2015, the state auditor shall set forth by
32 rule a procedure for including the addendum information required by this
33 section. The rule shall also allow reasonable opportunity for demonstration of
34 compliance.

 479.368. 1. (1) Except for county sales taxes deposited in the county
2 sales tax trust fund as defined in section 66.620, any county, city, town, or village
3 failing to timely file the required addendums or remit the required excess
4 revenues, if applicable, after the time period provided by the notice by the
5 director of the department of revenue or any final determination on excess
6 revenue by the court in a judicial proceeding, whichever is later, shall not receive
7 from that date any amount of moneys to which the county, city, town, or village
8 would otherwise be entitled to receive from revenues from local sales tax as
9 defined in section 32.085.

10 (2) If any county, city, town, or village has failed to timely file the
11 required addendums, the director of the department of revenue shall hold any
12 moneys the noncompliant city, town, village, or county would otherwise be
13 entitled to from local sales tax as defined in section 32.085 until a determination
14 is made by the director of revenue that the noncompliant city, town, village, or
15 county has come into compliance with the provisions of sections 479.359 and
16 479.360.

17 (3) If any county, city, town, or village has failed to remit the required
18 excess revenue to the director of the department of revenue such general local
19 sales tax revenues shall be distributed as provided in subsection 1 of section
20 479.359 by the director of the department of revenue in the amount of excess
21 revenues that the county, city, town, or village failed to remit.

22 Upon a noncompliant city, town, village, or county coming into compliance with
23 the provisions of sections 479.359 and 479.360, the director of the department of
24 revenue shall disburse any remaining balance of funds held under this subsection
25 after satisfaction of amounts due under section 479.359. Moneys held by the
26 director of the department of revenue under this subsection shall not be deemed
27 to be state funds and shall not be commingled with any funds of the state.

28 2. (1) Any city, town, village, or county that participates in the

29 distribution of local sales tax in sections 66.600 to 66.630 and fails to timely file
30 the required addendums or remit the required excess revenues, if applicable, after
31 the time period provided by the notice by the director of the department of
32 revenue or any final determination on excess revenue by the court in a judicial
33 proceeding, whichever is later, shall not receive any amount of moneys to which
34 said city, town, village, or county would otherwise be entitled under **sections**
35 66.600 to 66.630. The director of the department of revenue shall notify the
36 county to which the duties of the director have been delegated under section
37 66.601 of any noncompliant city, town, village, or county and the county shall
38 remit to the director of the department of revenue any moneys to which said city,
39 town, village, or county would otherwise be entitled. No disbursements to the
40 noncompliant city, town, village, or county shall be permitted until a
41 determination is made by the director of revenue that the noncompliant city,
42 town, village, or county has come into compliance with the provisions of sections
43 479.359 and 479.360.

44 (2) If such county, city, town, or village has failed to timely file the
45 required addendums, the director of the department of revenue shall hold any
46 moneys the noncompliant city, town, village, or county would otherwise be
47 entitled to under sections 66.600 to 66.630 until a determination is made by the
48 director of revenue that the noncompliant city, town, village, or county has come
49 into compliance with the provisions of sections 479.359 and 479.360.

50 (3) If any county, city, town, or village has failed to remit the required
51 excess revenue to the director of the department of revenue, the director shall
52 distribute such moneys the county, city, town, or village would otherwise be
53 entitled to under sections 66.600 to 66.630 in the amount of excess revenues that
54 the city, town, village, or county failed to remit as provided in subsection 1 of
55 section 479.359.

56 Upon a noncompliant city, town, village, or county coming into compliance with
57 the provisions of sections 479.359 and 479.360, the director of the department of
58 revenue shall disburse any remaining balance of funds held under this subsection
59 after satisfaction of amounts due under section 479.359 and shall notify the
60 county to which the duties of the director have been delegated under section
61 66.601 that such compliant city, town, village, or county is entitled to
62 distributions under sections 66.600 to 66.630. If a noncompliant city, town,
63 village, or county becomes disincorporated, any moneys held by the director of the
64 department of revenue shall be distributed to the schools of the county in the

65 same manner that proceeds of all penalties, forfeitures, and fines collected for any
66 breach of the penal laws of the state are distributed. Moneys held by the director
67 of the department of revenue under this subsection shall not be deemed to be
68 state funds and shall not be commingled with any funds of the state.

69 3. In addition to the provisions of subsection 1 of this section, any county
70 that fails to remit the required excess revenue as required by section 479.359
71 shall have an election upon the question of disincorporation under Article VI,
72 Section 5 of the Constitution of Missouri, and any such city, town, or village that
73 fails to remit the required excess revenue as required by section 479.359 shall
74 have an election upon the question of disincorporation according to the following
75 procedure:

76 (1) The election upon the question of disincorporation of such city, town,
77 or village shall be held on the next general election day, as defined by section
78 115.121;

79 (2) The director of the department of revenue shall notify the election
80 authorities responsible for conducting the election according to the terms of
81 section 115.125 and the county governing body in which the city, town, or village
82 is located not later than 5:00 p.m. on the tenth Tuesday prior to the election of
83 the amount of the excess revenues due;

84 (3) The question shall be submitted to the voters of such city, town, or
85 village in substantially the following form:

86 The city/town/village of has kept more revenue from fines, bond
87 forfeitures, and court costs for **municipal ordinance violations and** minor
88 traffic violations than is permitted by state law and failed to remit those revenues
89 to the county school fund. Shall the city/town/village of be dissolved?

90 YES NO

91 (4) Upon notification by the director of the department of revenue, the
92 county governing body in which the city, town, or village is located shall give
93 notice of the election for eight consecutive weeks prior to the election by
94 publication in a newspaper of general circulation published in the city, town, or
95 village, or if there is no such newspaper in the city, town, or village, then in the
96 newspaper in the county published nearest the city, town, or village; and

97 (5) Upon the affirmative vote of [sixty percent] **a majority** of those
98 persons voting on the question, the county governing body shall disincorporate
99 the city, town, or village.