

FIRST REGULAR SESSION

# HOUSE BILL NO. 108

92ND GENERAL ASSEMBLY

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INTRODUCED BY REPRESENTATIVE DEMPSEY.

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TED WEDEL, Chief Clerk

0472L.011

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## AN ACT

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

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*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Section A. Section 137.073, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 137.073, to read as follows: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 books, of a  
3 substantial portion of the parcels of real property within a county resulting wholly or partly from  
4 reappraisal of value or other actions of the assessor or county equalization body or ordered by  
5 the state tax commission or any court;
- 6 (2) "Tax rate", "rate", or "rate of levy", singular or plural, includes the tax rate for each  
7 purpose of taxation of property a taxing authority is authorized to levy without a vote and any  
8 tax rate authorized by election, including bond interest and sinking fund;
- 9 (3) "Tax rate ceiling", a tax rate as revised by the taxing authority to comply with the  
10 provisions of this section or when a court has determined the tax rate; except that, other  
11 provisions of law to the contrary notwithstanding, a school district may levy the operating levy  
12 for school purposes required for the current year pursuant to subsection 2 of section 163.021,  
13 RSMo, less all adjustments required pursuant to article X, section 22 of the Missouri  
14 Constitution, if such tax rate does not exceed the highest tax rate in effect subsequent to the 1980  
15 tax year. This is the maximum tax rate that may be levied, unless a higher tax rate ceiling is  
16 approved by voters of the political subdivision as provided in this section;

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

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

35 2. Whenever changes in assessed valuation are entered in the assessor's books for any  
36 personal property, in the aggregate, or for any subclass of real property as such subclasses are  
37 established in section 4(b) of article X of the Missouri Constitution and defined in section  
38 137.016, the county clerk in all counties and the assessor of St. Louis City shall notify each  
39 political subdivision wholly or partially within the county or St. Louis City of the change in  
40 valuation of each subclass of real property, individually, and personal property, in the aggregate,  
41 exclusive of new construction and improvements. All political subdivisions shall immediately  
42 revise the applicable rates of levy for each purpose for each subclass of real property,  
43 individually, and personal property, in the aggregate, for which taxes are levied to the extent  
44 necessary to produce from all taxable property, exclusive of new construction and improvements,  
45 substantially the same amount of tax revenue as was produced in the previous year for each  
46 subclass of real property, individually, and personal property, in the aggregate, except that the  
47 rate may not exceed the greater of the rate in effect in the 1984 tax year or the most recent  
48 voter-approved rate. Such tax revenue shall not include any receipts from ad valorem levies on  
49 any real property which was assessed by the assessor of a county or city in such previous year  
50 but is assessed by the assessor of a county or city in the current year in a different subclass of real  
51 property. Where the taxing authority is a school district for the purposes of revising the  
52 applicable rates of levy for each subclass of real property, the tax revenues from state-assessed

53 railroad and utility property shall be apportioned and attributed to each subclass of real property  
54 based on the percentage of the total assessed valuation of the county that each subclass of real  
55 property represents in the current taxable year. As provided in section 22 of article X of the  
56 constitution, a political subdivision may also revise each levy to allow for inflationary  
57 assessment growth occurring within the political subdivision. The inflationary growth factor  
58 shall be limited to the actual assessment growth in the aggregate for the political subdivision,  
59 exclusive of new construction and improvements, but not to exceed the consumer price index  
60 or five percent, whichever is lower. Should the tax revenue of a political subdivision from the  
61 various tax rates determined in this subsection be different than the tax revenue that would have  
62 been determined from a single tax rate as calculated pursuant to the method of calculation in this  
63 subsection prior to January 1, 2003, then the political subdivision shall revise the tax rates of  
64 those subclasses of real property, individually, and/or personal property, in the aggregate, in  
65 which there is a tax rate reduction, pursuant to the provisions of this subsection. Such revision  
66 shall yield an amount equal to such difference and shall be apportioned among such subclasses  
67 of real property, individually, and/or personal property, in the aggregate, as per the relative tax  
68 rate reduction of such subclasses of real property, individually, and/or personal property, in the  
69 aggregate.

70 3. (1) Where the taxing authority is a school district, it shall be required to revise the  
71 rates of levy to the extent necessary to produce from all taxable property, including state-assessed  
72 railroad and utility property, which shall be separately estimated in addition to other data  
73 required in complying with section 164.011, RSMo, substantially the amount of tax revenue  
74 permitted in this section. In the year following tax rate reduction, the tax rate ceiling may be  
75 adjusted to offset such district's reduction in the apportionment of state school moneys due to its  
76 reduced tax rate. However, in the event any school district, in calculating a tax rate ceiling  
77 pursuant to this section, requiring the estimating of effects of state-assessed railroad and utility  
78 valuation or loss of state aid, discovers that the estimates used result in receipt of excess  
79 revenues, which would have required a lower rate if the actual information had been known, the  
80 school district shall reduce the tax rate ceiling in the following year to compensate for the excess  
81 receipts, and the recalculated rate shall become the tax rate ceiling for purposes of this section.

82 (2) For any political subdivision which experiences a reduction in the amount of assessed  
83 valuation relating to a prior year, due to decisions of the state tax commission or a court pursuant  
84 to sections 138.430 to 138.433, RSMo, or due to clerical errors or corrections in the calculation  
85 or recordation of any assessed valuation:

86 (a) Such political subdivision may revise the tax rate ceiling for each purpose it levies  
87 taxes to compensate for the reduction in assessed value occurring after the political subdivision  
88 calculated the tax rate ceiling for the particular subclass of real property or for personal property,

89 in the aggregate, in the prior year. Such revision by the political subdivision shall be made at the  
90 time of the next calculation of the tax rate for the particular subclass of real property or for  
91 personal property, in the aggregate, after the reduction in assessed valuation has been determined  
92 and shall be calculated in a manner that results in the revised tax rate ceiling being the same as  
93 it would have been had the corrected or finalized assessment been available at the time of the  
94 prior calculation;

95 (b) In addition, for up to three years following the determination of the reduction in  
96 assessed valuation as a result of circumstances defined in this subdivision, such political  
97 subdivision may levy a tax rate for each purpose it levies taxes above the revised tax rate ceiling  
98 provided in paragraph (a) of this subdivision to recoup any revenues it was entitled to receive for  
99 the three-year period preceding such determination.

100 4. (1) In order to implement the provisions of this section and section 22 of article X of  
101 the Constitution of Missouri, the term "improvements" shall apply to both real and personal  
102 property. In order to determine the value of new construction and improvements, each county  
103 assessor shall maintain a record of real property valuations in such a manner as to identify each  
104 year the increase in valuation for each political subdivision in the county as a result of new  
105 construction and improvements. The value of new construction and improvements shall include  
106 the additional assessed value of all improvements or additions to real property which were begun  
107 after and were not part of the prior year's assessment, except that the additional assessed value  
108 of all improvements or additions to real property which had been totally or partially exempt from  
109 ad valorem taxes pursuant to sections 99.800 to 99.865, RSMo, sections 135.200 to 135.255,  
110 RSMo, and section 353.110, RSMo, shall be included in the value of new construction and  
111 improvements when the property becomes totally or partially subject to assessment and payment  
112 of all ad valorem taxes. The aggregate increase in valuation of personal property for the current  
113 year over that of the previous year is the equivalent of the new construction and improvements  
114 factor for personal property. The assessor shall certify the amount of new construction and  
115 improvements for each political subdivision to the county clerk in order that political  
116 subdivisions shall have this information for the purpose of calculating tax rates pursuant to this  
117 section and section 22, article X, Constitution of Missouri. In addition, the state tax commission  
118 shall certify each year to each county clerk the increase in the general price level as measured by  
119 the Consumer Price Index for All Urban Consumers for the United States, or its successor  
120 publications, as defined and officially reported by the United States Department of Labor, or its  
121 successor agency. The state tax commission shall certify the increase in such index on the latest  
122 twelve-month basis available on June first of each year over the immediately preceding prior  
123 twelve-month period in order that political subdivisions shall have this information available in  
124 setting their tax rates according to law and section 22 of article X of the Constitution of Missouri.

125 For purposes of implementing the provisions of this section and section 22 of article X of the  
126 Missouri Constitution, the term "property" means all taxable property, including state assessed  
127 property.

128 (2) Each political subdivision required to revise rates of levy pursuant to this section or  
129 section 22 of article X of the Constitution of Missouri shall calculate each tax rate it is authorized  
130 to levy and, in establishing each tax rate, shall consider each provision for tax rate revision  
131 provided in this section and section 22 of article X of the Constitution of Missouri, separately  
132 and without regard to annual tax rate reductions provided in section 67.505, RSMo, and section  
133 164.013, RSMo. Each political subdivision shall set each tax rate it is authorized to levy using  
134 the calculation that produces the lowest tax rate ceiling. It is further the intent of the general  
135 assembly, pursuant to the authority of section 10(c) of article X of the Constitution of Missouri,  
136 that the provisions of such section be applicable to tax rate revisions mandated pursuant to  
137 section 22 of article X of the Constitution of Missouri as to reestablishing tax rates as revised in  
138 subsequent years, enforcement provisions, and other provisions not in conflict with section 22  
139 of article X of the Constitution of Missouri. Annual tax rate reductions provided in section  
140 67.505, RSMo, and section 164.013, RSMo, shall be applied to the tax rate as established  
141 pursuant to this section and section 22 of article X of the Constitution of Missouri, unless  
142 otherwise provided by law.

143 5. (1) In all political subdivisions, the tax rate ceiling established pursuant to this section  
144 shall not be increased unless approved by a vote of the people. Approval of the higher tax rate  
145 shall be by at least a majority of votes cast. When a proposed higher tax rate requires approval  
146 by more than a simple majority pursuant to any provision of law or the constitution, the tax rate  
147 increase must receive approval by at least the majority required.

148 (2) When voters approve an increase in the tax rate, the amount of the increase shall be  
149 added to the tax rate ceiling as calculated pursuant to this section to the extent the total rate does  
150 not exceed any maximum rate prescribed by law. If a ballot question presents a stated tax rate  
151 for approval rather than describing the amount of increase in the question, the stated tax rate  
152 approved shall be the current tax rate ceiling. The increased tax rate ceiling as approved may be  
153 applied to the total assessed valuation of the political subdivision at the setting of the next tax  
154 rate.

155 (3) The governing body of any political subdivision may levy a tax rate lower than its  
156 tax rate ceiling [and may increase that lowered tax rate to a level not exceeding the tax rate  
157 ceiling without voter approval], **but no political subdivision may levy a tax rate higher than  
158 the tax rate calculated pursuant to this section or raise any tax rate to a level higher than  
159 the calculated tax rate but not exceeding the tax rate ceiling without voter approval.**

160 (4) In a year of general reassessment, a governing body whose tax rate is lower than its

161 tax rate ceiling shall revise its tax rate pursuant to the provisions of subsection 4 of this section  
162 as if its tax rate were at the tax rate ceiling. In a year following general reassessment, if such  
163 governing body intends to increase its tax rate, the governing body shall conduct a public  
164 hearing, and in a public meeting it shall adopt an ordinance, resolution or policy statement  
165 justifying its action prior to setting and certifying its tax rate. The provisions of this subdivision  
166 shall not apply to a taxing jurisdiction which receives some portion of its funding pursuant to  
167 chapter 163, RSMo.

168         6. (1) For the purposes of calculating state aid for public schools pursuant to section  
169 163.031, RSMo, each taxing authority which is a school district shall determine its proposed tax  
170 rate as a blended rate of the classes or subclasses of property. Such blended rate shall be  
171 calculated by first determining the total tax revenue of the property within the jurisdiction of the  
172 taxing authority, which amount shall be equal to the sum of the products of multiplying the  
173 assessed valuation of each class and subclass of property by the corresponding tax rate for such  
174 class or subclass, then dividing the total tax revenue by the total assessed valuation of the same  
175 jurisdiction, and then multiplying the resulting quotient by a factor of one-hundred. Where the  
176 taxing authority is a school district, such blended rate shall also be used by such school district  
177 for calculating revenue from state-assessed railroad and utility property as defined in chapter 151,  
178 RSMo, and for apportioning the tax rate by purpose.

179         (2) Each taxing authority proposing to levy a tax rate in any year shall notify the clerk  
180 of the county commission in the county or counties where the tax rate applies of its tax rate  
181 ceiling and its proposed tax rate. Each taxing authority shall express its proposed tax rate in a  
182 fraction equal to the nearest one-tenth of a cent, unless its proposed tax rate is in excess of one  
183 dollar, then one/one-hundredth of a cent. If a taxing authority shall round to one/one-hundredth  
184 of a cent, it shall round up a fraction greater than or equal to five/one-thousandth of one cent to  
185 the next higher one/one-hundredth of a cent; if a taxing authority shall round to one-tenth of a  
186 cent, it shall round up a fraction greater than or equal to five/one-hundredths of a cent to the next  
187 higher one-tenth of a cent. Any taxing authority levying a property tax rate shall provide data,  
188 in such form as shall be prescribed by the state auditor by rule, substantiating such tax rate  
189 complies with Missouri law. In addition, each taxing authority proposing to levy a tax rate for  
190 debt service shall provide data, in such form as shall be prescribed by the state auditor by rule,  
191 substantiating the tax rate for debt service complies with Missouri law. A tax rate proposed for  
192 annual debt service requirements will be prima facie valid if, after making the payment for which  
193 the tax was levied, bonds remain outstanding and the debt fund reserves do not exceed the  
194 following year's payments. The county clerk shall keep on file and available for public  
195 inspection all such information for a period of three years. The clerk shall, within three days of  
196 receipt, forward a copy of the notice of a taxing authority's tax rate ceiling and proposed tax rate

197 and any substantiating data to the state auditor. The state auditor shall, within fifteen days of the  
198 date of receipt, examine such information and return to the county clerk [his or her] **the state**  
199 **auditor's** findings as to compliance of the tax rate ceiling with this section and as to compliance  
200 of any proposed tax rate for debt service with Missouri law. If the [state auditor believes that a]  
201 taxing authority's proposed tax rate does not comply with Missouri law **or the voters have not**  
202 **approved an increase in the tax rate or tax rate ceiling pursuant to this section**, then the  
203 state auditor's findings shall include a recalculated tax rate, and the state auditor may request a  
204 taxing authority to submit documentation supporting such taxing authority's proposed tax rate.  
205 The county clerk shall immediately forward a copy of the auditor's findings to the taxing  
206 authority and shall file a copy of the findings with the information received from the taxing  
207 authority. The taxing authority shall have fifteen days from the date of receipt from the county  
208 clerk of the state auditor's findings and any request for supporting documentation to accept or  
209 reject in writing the rate change certified by the state auditor and to submit all requested  
210 information to the state auditor. A copy of the taxing authority's acceptance or rejection and any  
211 information submitted to the state auditor shall also be mailed to the county clerk. If a taxing  
212 authority rejects a rate change certified by the state auditor and the state auditor does not receive  
213 supporting information which justifies the taxing authority's original or any subsequent proposed  
214 tax rate, then the state auditor shall refer the perceived violations of such taxing authority to the  
215 attorney general's office and the attorney general [is authorized] **shall** to obtain injunctive relief  
216 to prevent the taxing authority from levying a violative tax rate.

217         7. No tax rate shall be extended on the tax rolls by the county clerk unless the political  
218 subdivision has complied with [the foregoing provisions of] this section.

219         8. Whenever a taxpayer has cause to believe that a taxing authority has not complied  
220 with [the provisions of] this section, the taxpayer may make a formal complaint with the  
221 prosecuting attorney of the county. Where the prosecuting attorney fails to bring an action within  
222 ten days of the filing of the complaint, the taxpayer may bring a civil action pursuant to this  
223 section and institute an action as representative of a class of all taxpayers within a taxing  
224 authority if the class is so numerous that joinder of all members is impracticable, if there are  
225 questions of law or fact common to the class, if the claims or defenses of the representative  
226 parties are typical of the claims or defenses of the class, and if the representative parties will  
227 fairly and adequately protect the interests of the class. In any class action maintained pursuant  
228 to this section, the court may direct to the members of the class a notice to be published at least  
229 once each week for four consecutive weeks in a newspaper of general circulation published in  
230 the county where the civil action is commenced and in other counties within the jurisdiction of  
231 a taxing authority. The notice shall advise each member that the court will exclude [him or her]  
232 **the member** from the class if [he or she] **the member** so requests by a specified date, that the

233 judgment, whether favorable or not, will include all members who do not request exclusion, and  
234 that any member who does not request exclusion may, if [he or she] **the member** desires, enter  
235 an appearance. In any class action brought pursuant to this section, the court, in addition to the  
236 relief requested, shall assess against the taxing authority found to be in violation of this section  
237 the reasonable costs of bringing the action, including reasonable attorney's fees, provided no  
238 attorney's fees shall be awarded any attorney or association of attorneys who receive public funds  
239 from any source for their services. Any action brought pursuant to this section shall be set for  
240 hearing as soon as practicable after the cause is at issue.

241         9. If in any action, including a class action, the court issues an order requiring a taxing  
242 authority to revise the tax rates as provided in this section or enjoins a taxing authority from the  
243 collection of a tax because of its failure to revise the rate of levy as provided in this section, any  
244 taxpayer paying his or her taxes when an improper rate is applied has erroneously paid his or her  
245 taxes in part, whether or not the taxes are paid under protest as provided in section 139.031,  
246 RSMo. The part of the taxes paid erroneously is the difference in the amount produced by the  
247 original levy and the amount produced by the revised levy. The township or county collector of  
248 taxes or the collector of taxes in any city shall refund the amount of the tax erroneously paid.  
249 The taxing authority refusing to revise the rate of levy as provided in this section shall make  
250 available to the collector all funds necessary to make refunds pursuant to this subsection. No  
251 taxpayer shall receive any interest on any money erroneously paid by him or her pursuant to this  
252 subsection. Effective in the 1994 tax year, nothing in this section shall be construed to require  
253 a taxing authority to refund any tax erroneously paid prior to or during the third tax year  
254 preceding the current tax year.

255         10. A taxing authority, including but not limited to a township, county collector, or  
256 collector of taxes, responsible for determining and collecting the amount of residential real  
257 property tax levied in its jurisdiction, shall report such amount of tax collected by December  
258 thirty-first of each year such property is assessed to the state tax commission. The state tax  
259 commission shall compile the tax data by county or taxing jurisdiction and submit a report to the  
260 general assembly no later than January thirty-first of the following year.