

FIRST REGULAR SESSION

REVISION

HOUSE BILL NO. 619

92ND GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE YATES.

Read 1st time March 6, 2003, and copies ordered printed.

STEPHEN S. DAVIS, Chief Clerk

2088L.011

AN ACT

To repeal sections 66.700, 66.703, 66.705, 66.707, 66.710, 260.003, and 513.436, RSMo, for the purpose of reenacting sections held to be unconstitutional because of defects in the title of the bill when originally enacted.

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

Section A. Sections 66.700, 66.703, 66.705, 66.707, 66.710, 260.003, and 513.436, RSMo, are repealed and seven new sections enacted in lieu thereof, to be known as sections 66.700, 66.703, 66.705, 66.707, 66.710, 260.003, and 513.436, to read as follows:

66.700. Pursuant to section 9 of article VI of the state constitution, any county of the first classification which has a population of more than one hundred thousand inhabitants but less than two hundred thousand inhabitants, and any county of the first classification which contains a city with a population of one hundred thousand or more inhabitants which adjoins no other county of the first classification, and any county which has a population of less than one hundred thousand inhabitants and adjoins any county with a population of nine hundred thousand or more inhabitants, and any county of the first classification with a population of at least one hundred thousand but less than one hundred twenty thousand, and any county which has a population of less than two hundred thousand inhabitants and adjoins any county with a population of nine hundred thousand or more inhabitants, may adopt an alternative form of government and frame a county constitution for the vesting of any and all powers the general assembly has the authority to confer, provided such powers are consistent with the constitution of this state and not limited or denied by either the county constitution or by laws of this state, except those powers to regulate and provide for free and open elections. A county approving the alternative form of government and adopting a county constitution in the manner prescribed by sections 66.700 to

16 66.710 shall only impose such taxes as it is authorized by the constitution and law to impose.
 17 The county commission of such a county may authorize the submission of the question set forth
 18 in sections 66.700 to 66.710 by placing such question on the ballot at a county or state general,
 19 primary or special election as set by the county commission. The circuit judges of the circuit
 20 where such county is located shall establish a county constitution commission to develop a
 21 county constitution if the qualified voters of the county, at a county or state general, primary or
 22 special election, approve the following question:

23 Shall a commission be chosen by the circuit court (circuit number) to frame
 24 a county constitution which shall be submitted to the voters of County (county's
 25 name)?

26 YES NO

27
 28 The election authority shall certify the results of the election to the county commission of the
 29 county and the circuit court where such county is located. If a majority of the votes cast by the
 30 qualified voters voting thereon are in favor of the proposal, then the circuit judges of the circuit
 31 where such county is located shall establish a commission in the manner prescribed in section
 32 66.703. If a majority of the votes cast by the qualified voters voting thereon are opposed to the
 33 proposal, the circuit judges shall not establish a county constitution.

EXPLANATION: This section was held unconstitutional because the bill contained more than one subject; however this section was also amended the same session by two other bills and the language was merged. Hammerschmidt v. Boone County, 877 S.W.2d 98 (Mo.banc 1994).

66.703. In any county where the question submitted pursuant to section 66.700 is
 2 approved, the circuit judges of the circuit where such county is located shall, within sixty days
 3 after certification of the election results by the election authority, appoint a commission to frame
 4 the county constitution, consisting of fourteen residents of the county, who shall serve without
 5 pay, and be equally divided between the two political parties casting the greater number of votes
 6 for governor at the last preceding gubernatorial election.

EXPLANATION: This section was held unconstitutional because the bill contained more than one subject; however this section was also amended the same session by two other bills and the language was merged. Hammerschmidt v. Boone County, 877 S.W.2d 98 (Mo.banc 1994).

66.705. 1. The county constitution framed by the commission shall take effect on the
 2 day fixed therein and shall supersede any existing charter, county constitution or government,
 3 if approved by the majority of the qualified voters of the county voting thereon. The county
 4 constitution shall be submitted by the county constitution commission to the election authority
 5 of the county not later than thirty days after the completion of the county constitution or more

6 than one year from the date of the selection of the county constitution commission by the circuit
 7 court. The election authority of the county shall conduct the election at the next available
 8 election authorized under state law. The election shall be conducted under the provisions of
 9 chapter 115, RSMo, and may, at the request of the county constitution commission, be conducted
 10 by mail ballot. The commission may submit for separate vote any parts of the county
 11 constitution, or any alternative sections or articles, and the alternative sections or articles
 12 receiving the larger affirmative vote shall prevail if a charter is adopted.

13 2. In addition to notices required under chapter 115, RSMo, the election authority shall
 14 publish the full text of the county constitution in each newspaper of general circulation in the
 15 county at least once a week for at least three weeks, the last publication to be not more than three
 16 nor less than two weeks immediately preceding the election.

17 3. The ballot of submission shall contain, but need not be limited to, the following
 18 language:

19 Shall County adopt the proposed county constitution?
 20 YES NO

21

22 If a majority of the votes cast by the qualified voters voting thereon are in favor of the proposal,
 23 then the county constitution shall be adopted. If a majority of the votes cast by the qualified
 24 voters voting thereon are opposed to the proposal, the county constitution shall not be adopted.
 25 No county constitution shall be submitted to the voters of the county within two years after the
 26 election at which a county constitution was defeated, and prior to resubmitting the question of
 27 whether to adopt a county constitution to the voters pursuant to this subsection, the county
 28 commission shall resubmit the question set forth in section 66.700 to the qualified voters of the
 29 county and a majority of the votes cast by the qualified voters voting thereon shall be in favor
 30 of the proposal.

EXPLANATION: This section was held unconstitutional because the bill contained more than one subject; however this section was also amended the same session by two other bills and the language was merged. *Hammerschmidt v. Boone County*, 877 S.W.2d 98 (Mo.banc 1994).

66.707. Duplicate certificates shall be made, setting forth the county constitution adopted
 2 and its ratification, signed by the election authority of the county after canvassing election
 3 returns. One of such certified copies shall be deposited in the office of the secretary of state and
 4 the other, after being recorded in the records of the county, shall be deposited among the archives
 5 of the county and all courts shall take judicial notice thereof. This section shall also apply to any
 6 amendment to the county constitution.

EXPLANATION: This section was held unconstitutional because the bill contained more than one subject; however this section was also amended the same

session by two other bills and the language was merged. *Hammerschmidt v. Boone County*, 877 S.W.2d 98 (Mo.banc 1994).

66.710. All amendments to such county constitution shall be approved by the voters and
2 shall become part of the county constitution at the time and under the conditions fixed in the
3 amendments.

EXPLANATION: This section was held unconstitutional because the bill contained more than one subject; however this section was also amended the same session by two other bills and the language was merged. *Hammerschmidt v. Boone County*, 877 S.W.2d 98 (Mo.banc 1994).

260.003. Notwithstanding any provision of this chapter, the department of natural
2 resources shall require that before any permit, license, or grant of authority is issued or renewed
3 by the department of natural resources pursuant to this chapter, the local jurisdiction shall verify
4 that the person and activity which is the subject of such permit, license, or grant of authority, is
5 in compliance with all applicable local zoning, building, and health codes, ordinances, and orders
6 with regard to the person and activity regulated pursuant to this chapter. Failure of the local
7 jurisdiction to respond to a request from the department of natural resources for such verification
8 within thirty days of such request shall be deemed to be verification of local compliance.

EXPLANATION: The court held that the subject of the bill was not clearly expressed in its title. *Solid Waste Management Association, et al. v. Director of the Department of Natural Resources*, 964 S.W.2d 818 (Mo.banc 1998).

513.436. No property upon which a debtor has voluntarily granted a lien shall, to the
2 extent of the balance due on the debt secured thereby, be subject to the provisions of this chapter
3 or be exempt from attachment or execution.

EXPLANATION: This section was held unconstitutional because the title of the bill failed to conform to Section 23 of Article III of the Missouri Constitution that a bill contain only one subject. *In re Darrell L. Sapp*, 81 B.R. 545, Bkrtcy (W.D. Mo. 1987).