

SECOND REGULAR SESSION
HOUSE COMMITTEE SUBSTITUTE FOR
**HOUSE BILL NOS. 795, 972,
1128 & 1161**
92ND GENERAL ASSEMBLY

Reported from the Committee on Local Government March 11, 2004, with recommendation that the House Committee Substitute for House Bill Nos. 795, 972, 1128 & 1161 Do Pass.

STEPHEN S. DAVIS, Chief Clerk

2494L.02C

AN ACT

To repeal sections 49.650, 50.339, 260.831, and 304.010, RSMo, and to enact in lieu thereof five new sections relating to county government, with penalty provisions.

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

Section A. Sections 49.650, 50.339, 260.831, and 304.010, RSMo, are repealed and five
2 new sections enacted in lieu thereof, to be known as sections 49.650, 50.339, 138.011, 260.831,
3 and 304.010, to read as follows:

49.650. 1. The governing authority of each county [of the first, second, or fourth
2 classification] without a charter form of government shall have the power to adopt ordinances
3 or resolutions relating to its property, affairs, and local government for which no provision has
4 been made in the constitution of this state or state statute regarding the following:

5 (1) County roads controlled by the county;

6 (2) Emergency management, as it specifically relates to the actual occurrence of a natural
7 or man-made disaster of major proportions within the county when the safety and welfare of the
8 inhabitants of such county are jeopardized;

9 (3) Nuisance abatement, excluding agricultural and horticultural property as defined in
10 section 137.016, RSMo;

11 (4) Storm water control, excluding agricultural and horticultural property as defined in
12 section 137.016, RSMo;

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

- 13 (5) The promotion of economic development for job creation purposes; [and]
14 (6) Parks and recreation; **and**
15 (7) **Protection of the environment and the health of the general public from the**
16 **risks posed by methamphetamine production.**

17

18 If any such ordinance, order, or resolution conflicts with a municipal, fire protection district, or
19 ambulance district ordinance, the provisions of such municipality, fire protection district, or
20 ambulance district shall prevail within the corporate boundaries of the municipality, of such
21 municipality, fire protection district, or ambulance district. All ordinances adopted pursuant to
22 this section shall remain effective until repealed or amended by the governing authority, except
23 that the general assembly shall have the power to further define, broaden, limit, or otherwise
24 regulate the power of each such county to adopt ordinances, resolutions, or regulations.

25 2. The governing body of each county [of the first, second, or fourth classification]
26 without a charter form of government may submit to the qualified voters of the county any
27 ordinance, resolution, or regulation proposed pursuant to this section for the approval of the
28 qualified voters of the county. Any ordinance, resolution, or regulation submitted to the
29 qualified voters pursuant to this section shall become effective if a majority of the qualified
30 voters voting on the ordinance, resolution, or regulation are in favor of its adoption, but no
31 ordinance, resolution, or regulation shall become effective if a majority of the qualified voters
32 voting on the ordinance, resolution, or regulation are opposed to its adoption.

33 3. Notwithstanding any other provision of this section to the contrary, no tax or fee shall
34 be submitted to the voters of the county unless the tax or fee has been authorized by statute by
35 the general assembly.

36 4. No county of the first, second, **third**, or fourth classification shall have the power to
37 adopt any ordinance, resolution, or regulation pursuant to this section governing any railroad
38 company, telecommunications or wireless companies, public utilities, rural electric cooperatives,
39 or municipal utilities.

50.339. **1.** In any county of the first classification with more than seventy-one thousand
2 three hundred but less than seventy-one thousand four hundred inhabitants, the salary
3 commission at its meeting in 2003 and at any meeting held in 2004 may equalize the base salary
4 for each office to an amount not greater than that set by law as the maximum compensation.
5 Nothing in this section shall be construed to prevent offices which have additional compensation
6 specified in law from receiving such compensation or from having such compensation added to
7 the base compensation in excess of the equalized salary.

8 **2. Notwithstanding any provision of section 50.343 to the contrary, in any county**
9 **of the first classification with more than sixty-eight thousand six hundred but less than**

10 **sixty-eight thousand seven hundred inhabitants, the salary commission may meet in the**
11 **year 2004 to determine whether to equalize the base salary for the office of treasurer with**
12 **the base salaries of other county officers at an amount not greater than the amount set as**
13 **the maximum compensation in subdivision (1) of subsection 1 of section 50.343.**

138.011. No member of any board of equalization in any county with a charter form
2 **of government shall be an official of any city, town, or village in the county, a member of**
3 **any school board in the county, or an employee of any school district within the county.**
4 **Each member shall have some level of experience as determined by the governing authority**
5 **of the county as a real estate broker, real estate appraiser, home builder, property**
6 **developer, lending officer, or investor in real estate before their appointment to the board.**

260.831. 1. Each operator of a solid waste sanitary or demolition landfill in any county
2 wherein a landfill fee has been approved by the voters pursuant to section 260.830 shall collect
3 a charge equal to the charge authorized by the voters in such election, not to exceed one dollar
4 and fifty cents per ton or its volumetric equivalent of solid waste accepted. Such fee shall be
5 collected in addition to any fee authorized or imposed pursuant to the provisions of section
6 260.330, and shall be paid to such operator by all political subdivisions, municipalities,
7 corporations, entities or persons disposing of solid waste or demolition waste, whether pursuant
8 to contract or otherwise, and notwithstanding that any such contract may provide for collection,
9 transportation and disposal of such waste at a fixed fee. Any such contract providing for
10 collections, transportation and disposal of such waste at a fixed fee which is in force on August
11 28, 2003, shall be renegotiated by the parties to the contract to include the additional fee imposed
12 by this section. Each such operator shall submit the charge, less collection costs, to the
13 governing body of the county, which shall dedicate such funds for use by the industrial
14 development authority within the county and such funds shall be used by the **county commission**
15 **or** authority for economic development within the county. Collection costs shall be the same as
16 established by the department of natural resources pursuant to section 260.330, and shall not
17 exceed two percent of the amount collected pursuant to this section.

18 2. The charges established in this section shall be enumerated separately from any
19 disposal fee charged by the landfill. After January 1, 1994, the fee authorized under section
20 260.830 and this section shall be stated as a separate surcharge on each individual solid waste
21 collection customer's invoice and shall also [name the] **indicate whether the county**
22 **commission or** economic development authority [which] receives the funds. Moneys
23 transmitted to the governing body of the county shall be no less than the amount collected less
24 collection costs and in a form, manner and frequency as the governing body may prescribe.
25 Failure to collect such charge shall not relieve the operator from responsibility for transmitting
26 an amount equal to the charge to the governing body.

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

2 (1) "Expressway", a divided highway of at least ten miles in length with four or more
3 lanes which is not part of the federal interstate system of highways which has crossovers or
4 accesses from streets, roads or other highways at the same grade level as such divided highway;

5 (2) "Freeway", a limited access divided highway of at least ten miles in length with four
6 or more lanes which is not part of the federal interstate system of highways which does not have
7 any crossovers or accesses from streets, roads or other highways at the same grade level as such
8 divided highway within such ten miles of divided highway;

9 (3) "Rural interstate", that part of the federal interstate highway system that is not located
10 in an urban area;

11 (4) "Urbanized area", an area of fifty thousand population at a density at or greater than
12 one thousand persons per square mile.

13 2. Except as otherwise provided in this section, the uniform maximum speed limits are
14 and no vehicle shall be operated in excess of the speed limits established pursuant to this section:

15 (1) Upon the rural interstates and freeways of this state, seventy miles per hour;

16 (2) Upon the rural expressways of this state, sixty-five miles per hour;

17 (3) Upon the interstate highways, freeways or expressways within the urbanized areas
18 of this state, sixty miles per hour;

19 (4) All other roads and highways in this state not located in an urbanized area and not
20 provided for in subdivisions (1) to (3) of this subsection, sixty miles per hour;

21 (5) All other roads provided for in subdivision (4) of this subsection shall not include
22 any state two-lane road which is identified by letter. Such lettered roads shall not exceed
23 fifty-five miles per hour unless set at a higher speed as established by the department of
24 transportation, except that no speed limit shall be set higher than sixty miles per hour;

25 (6) For the purposes of enforcing the speed limit laws of this state, it is a rebuttable
26 presumption that the posted speed limit is the legal speed limit.

27 3. On any state road or highway where the speed limit is not set pursuant to a local
28 ordinance, the highways and transportation commission may set a speed limit higher or lower
29 than the uniform maximum speed limit provided in subsection 2 of this section, if a higher or
30 lower speed limit is recommended by the department of transportation. The department of public
31 safety, where it believes for safety reasons, or to expedite the flow of traffic a higher or lower
32 speed limit is warranted, may request the department of transportation to raise or lower such
33 speed limit, except that no speed limit shall be set higher than seventy miles per hour.

34 4. Notwithstanding the provisions of section 304.120 or any other provision of law to
35 the contrary, cities, towns and villages may regulate the speed of vehicles on state roads and
36 highways within such cities', towns' or villages' corporate limits by ordinance with the approval

37 of the state highways and transportation commission. Any reduction of speed in cities, towns
38 or villages shall be designed to expedite the flow of traffic on such state roads and highways to
39 the extent consistent with public safety. The commission may declare any ordinance void if it
40 finds that such ordinance is:

41 (1) Not primarily designed to expedite traffic flow; and

42 (2) Primarily designed to produce revenue for the city, town or village which enacted
43 such ordinance.

44

45 If an ordinance is declared void, the city, town or village shall have any future proposed
46 ordinance approved by the highways and transportation commission before such ordinance may
47 take effect.

48 5. The county commission of any county of the second, third or fourth classification may
49 set the speed limit or the weight limit or both the speed limit and the weight limit on roads or
50 bridges on any county, township or road district road in the county and, with the approval of the
51 state highways and transportation commission, on any state road or highway not within the limits
52 of any incorporated city, town or village, lower than the uniform maximum speed limit as
53 provided in subsection 2 of this section where the condition of the road or the nature of the area
54 requires a lower speed. The commission shall send copies of any order establishing a speed limit
55 or weight limit on roads and bridges on a county, township or road district road in the county to
56 the chief engineer of the state department of transportation, the superintendent of the state
57 highway patrol and to any township or road district maintaining roads in the county. After the
58 roads have been properly marked by signs indicating the speed limits and weight limits set by
59 the county commission, the speed limits and weight limits shall be of the same effect as the
60 speed limits provided for in subsection 1 of this section and shall be enforced by the state
61 highway patrol and the county sheriff as if such speed limits and weight limits were established
62 by state law.

63 **6. The county commission of any county of the second, third, or fourth**
64 **classification may by ordinance set a countywide speed limit on roads within**
65 **unincorporated areas of any county, township, or road district in the county and may**
66 **establish reasonable speed regulations for motor vehicles within the limit of such county.**
67 **No person who is not a resident of such county and who has not been within the limits**
68 **thereof for a continuous period of more than forty-eight hours shall be convicted of a**
69 **violation of such ordinances, unless it is shown by competent evidence that there was**
70 **posted at the place where the boundary of such county road enters the county a sign**
71 **displaying in black letters not less than four inches high and one inch wide on a white**
72 **background the speed fixed by such county so that such signs may be clearly seen by**

73 **operators and drivers from their vehicles upon entering such county. The commission**
74 **shall send copies of any order establishing a countywide speed limit on a county, township,**
75 **or road district road in the county to the chief engineer of the Missouri department of**
76 **transportation, the superintendent of the state highway patrol, and to any township or**
77 **road district maintaining roads in the county. After the boundaries of the county roads**
78 **entering the county have been properly marked by signs indicating the speed limits set by**
79 **the county commission, the speed limits shall be of the same effect as the speed limits**
80 **provided for in subsection 1 of this section and shall be enforced by the state highway**
81 **patrol and the county sheriff as if such speed limits were established by state law.**

82 [6.] 7. All road signs indicating speed limits or weight limits shall be uniform in size,
83 shape, lettering and coloring and shall conform to standards established by the department of
84 transportation.

85 [7.] 8. The provisions of this section shall not be construed to alter any speed limit set
86 below fifty-five miles per hour by any ordinance of any county, city, town or village of the state
87 adopted before March 13, 1996.

88 [8.] 9. The speed limits established pursuant to this section shall not apply to the
89 operation of any emergency vehicle as defined in section 304.022.

90 [9.] 10. A violation of the provisions of this section shall not be construed to relieve the
91 parties in any civil action on any claim or counterclaim from the burden of proving negligence
92 or contributory negligence as the proximate cause of any accident or as the defense to a
93 negligence action.

94 [10.] 11. Any person violating the provisions of this section is guilty of a class C
95 misdemeanor, unless such person was exceeding the posted speed limit by twenty miles per hour
96 or more then it is a class B misdemeanor.