

SECOND REGULAR SESSION  
HOUSE COMMITTEE SUBSTITUTE FOR  
**SENATE BILL NO. 1394**  
**92ND GENERAL ASSEMBLY**

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Reported from the Committee on Tax Policy May 5, 2004, with recommendation that the House Committee Substitute for Senate Bill No. 1394 Do Pass.

STEPHEN S. DAVIS, Chief Clerk

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**AN ACT**

To repeal sections 32.087, 143.782, 144.083, and 644.032, RSMo, and to enact in lieu thereof four new sections relating to tax collection.

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

Section A. Sections 32.087, 143.782, 144.083, and 644.032, RSMo, are repealed and  
2 four new sections enacted in lieu thereof, to be known as sections 32.087, 143.782, 144.083, and  
3 644.032, to read as follows:

32.087. 1. Within ten days after the adoption of any ordinance or order in favor of  
2 adoption of any local sales tax authorized under the local sales tax law by the voters of a taxing  
3 entity, the governing body or official of such taxing entity shall forward to the director of revenue  
4 by United States registered mail or certified mail a certified copy of the ordinance or order. The  
5 ordinance or order shall reflect the effective date thereof.

6 2. Any local sales tax so adopted shall become effective on the first day of the second  
7 calendar quarter after the director of revenue receives notice of adoption of the local sales tax,  
8 except as provided in subsection 18 of this section.

9 3. Every retailer within the jurisdiction of one or more taxing entities which has imposed  
10 one or more local sales taxes under the local sales tax law shall add all taxes so imposed along  
11 with the tax imposed by the sales tax law of the state of Missouri to the sale price and, when  
12 added, the combined tax shall constitute a part of the price, and shall be a debt of the purchaser  
13 to the retailer until paid, and shall be recoverable at law in the same manner as the purchase

**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.**

14 price. The combined rate of the state sales tax and all local sales taxes shall be the sum of the  
15 rates, multiplying the combined rate times the amount of the sale.

16 4. The brackets required to be established by the director of revenue under the provisions  
17 of section 144.285, RSMo, shall be based upon the sum of the combined rate of the state sales  
18 tax and all local sales taxes imposed under the provisions of the local sales tax law.

19 5. The ordinance or order imposing a local sales tax under the local sales tax law shall  
20 impose upon all sellers a tax for the privilege of engaging in the business of selling tangible  
21 personal property or rendering taxable services at retail to the extent and in the manner provided  
22 in sections 144.010 to 144.525, RSMo, and the rules and regulations of the director of revenue  
23 issued pursuant thereto; except that the rate of the tax shall be the sum of the combined rate of  
24 the state sales tax or state highway use tax and all local sales taxes imposed under the provisions  
25 of the local sales tax law.

26 6. On and after the effective date of any local sales tax imposed under the provisions of  
27 the local sales tax law, the director of revenue shall perform all functions incident to the  
28 administration, collection, enforcement, and operation of the tax, and the director of revenue  
29 shall collect in addition to the sales tax for the state of Missouri all additional local sales taxes  
30 authorized under the authority of the local sales tax law. All local sales taxes imposed under the  
31 local sales tax law together with all taxes imposed under the sales tax law of the state of Missouri  
32 shall be collected together and reported upon such forms and under such administrative rules and  
33 regulations as may be prescribed by the director of revenue.

34 7. All applicable provisions contained in sections 144.010 to 144.525, RSMo, governing  
35 the state sales tax and section 32.057, the uniform confidentiality provision, shall apply to the  
36 collection of any local sales tax imposed under the local sales tax law except as modified by the  
37 local sales tax law.

38 8. All exemptions granted to agencies of government, organizations, persons and to the  
39 sale of certain articles and items of tangible personal property and taxable services under the  
40 provisions of sections 144.010 to 144.525, RSMo, as these sections now read and as they may  
41 hereafter be amended, it being the intent of this general assembly to ensure that the same sales  
42 tax exemptions granted from the state sales tax law also be granted under the local sales tax law,  
43 are hereby made applicable to the imposition and collection of all local sales taxes imposed  
44 under the local sales tax law.

45 9. The same sales tax permit, exemption certificate and retail certificate required by  
46 sections 144.010 to 144.525, RSMo, for the administration and collection of the state sales tax  
47 shall satisfy the requirements of the local sales tax law, and no additional permit or exemption  
48 certificate or retail certificate shall be required; except that the director of revenue may prescribe

49 a form of exemption certificate for an exemption from any local sales tax imposed by the local  
50 sales tax law.

51 10. All discounts allowed the retailer under the provisions of the state sales tax law for  
52 the collection of and for payment of taxes under the provisions of the state sales tax law are  
53 hereby allowed and made applicable to any local sales tax collected under the provisions of the  
54 local sales tax law.

55 11. The penalties provided in section 32.057 and sections 144.010 to 144.525, RSMo,  
56 for a violation of the provisions of those sections are hereby made applicable to violations of the  
57 provisions of the local sales tax law.

58 12. (1) For the purposes of any local sales tax imposed by an ordinance or order under  
59 the local sales tax law, all sales, except the sale of motor vehicles, trailers, boats, and outboard  
60 motors, shall be deemed to be consummated at the place of business of the retailer unless the  
61 tangible personal property sold is delivered by the retailer or his agent to an out-of-state  
62 destination. In the event a retailer has more than one place of business in this state which  
63 participates in the sale, the sale shall be deemed to be consummated at the place of business of  
64 the retailer where the initial order for the tangible personal property is taken, even though the  
65 order must be forwarded elsewhere for acceptance, approval of credit, shipment or billing. A  
66 sale by a retailer's agent or employee shall be deemed to be consummated at the place of business  
67 from which he works.

68 (2) For the purposes of any local sales tax imposed by an ordinance or order under the  
69 local sales tax law, all sales of motor vehicles, trailers, boats, and outboard motors shall be  
70 deemed to be consummated at the residence of the purchaser and not at the place of business of  
71 the retailer, or the place of business from which the retailer's agent or employee works.

72 (3) For the purposes of any local tax imposed by an ordinance or under the local sales  
73 tax law on charges for mobile telecommunications services, all taxes of mobile  
74 telecommunications service shall be imposed as provided in the Mobile Telecommunications  
75 Sourcing Act, 4 U.S.C. Sections 116 through 124, as amended.

76 13. Local sales taxes imposed pursuant to the local sales tax law on the purchase and sale  
77 of motor vehicles, trailers, boats, and outboard motors shall not be collected and remitted by the  
78 seller, but shall be collected by the director of revenue at the time application is made for a  
79 certificate of title, if the address of the applicant is within a taxing entity imposing a local sales  
80 tax under the local sales tax law.

81 14. The director of revenue and any of his deputies, assistants and employees who have  
82 any duties or responsibilities in connection with the collection, deposit, transfer, transmittal,  
83 disbursement, safekeeping, accounting, or recording of funds which come into the hands of the  
84 director of revenue under the provisions of the local sales tax law shall enter a surety bond or

85 bonds payable to any and all taxing entities in whose behalf such funds have been collected  
86 under the local sales tax law in the amount of one hundred thousand dollars for each such tax;  
87 but the director of revenue may enter into a blanket bond covering himself and all such deputies,  
88 assistants and employees. The cost of any premium for such bonds shall be paid by the director  
89 of revenue from the share of the collections under the sales tax law retained by the director of  
90 revenue for the benefit of the state.

91 15. The director of revenue shall annually report on his management of each trust fund  
92 which is created under the local sales tax law and administration of each local sales tax imposed  
93 under the local sales tax law. He shall provide each taxing entity imposing one or more local  
94 sales taxes authorized by the local sales tax law with a detailed accounting of the source of all  
95 funds received by him for the taxing entity. Notwithstanding any other provisions of law, the  
96 state auditor shall annually audit each trust fund. A copy of the director's report and annual audit  
97 shall be forwarded to each taxing entity imposing one or more local sales taxes.

98 16. Within the boundaries of any taxing entity where one or more local sales taxes have  
99 been imposed, if any person is delinquent in the payment of the amount required to be paid by  
100 him under the local sales tax law or in the event a determination has been made against him for  
101 taxes and penalty under the local sales tax law, the limitation for bringing suit for the collection  
102 of the delinquent tax and penalty shall be the same as that provided in sections 144.010 to  
103 144.525, RSMo. Where the director of revenue has determined that suit must be filed against  
104 any person for the collection of delinquent taxes due the state under the state sales tax law, and  
105 where such person is also delinquent in payment of taxes under the local sales tax law, the  
106 director of revenue shall notify the taxing entity [to which delinquent taxes are due under the  
107 local sales tax law by United States registered mail or certified mail at least ten days before  
108 turning the case over to the attorney general. The taxing entity, acting through its attorney, may  
109 join in such suit as a party plaintiff to seek a judgment for the delinquent taxes and penalty due  
110 such taxing entity.] in the event any person fails or refuses to pay the amount of any local sales  
111 tax due[, the director of revenue shall promptly notify the taxing entity to which the tax would  
112 be due] so that appropriate action may be taken by the taxing entity.

113 17. Where property is seized by the director of revenue under the provisions of any law  
114 authorizing seizure of the property of a taxpayer who is delinquent in payment of the tax imposed  
115 by the state sales tax law, and where such taxpayer is also delinquent in payment of any tax  
116 imposed by the local sales tax law, the director of revenue shall permit the taxing entity to join  
117 in any sale of property to pay the delinquent taxes and penalties due the state and to the taxing  
118 entity under the local sales tax law. The proceeds from such sale shall first be applied to all sums  
119 due the state, and the remainder, if any, shall be applied to all sums due such taxing entity.

120           18. If a local sales tax has been in effect for at least one year under the provisions of the  
121 local sales tax law and voters approve reimposition of the same local sales tax at the same rate  
122 at an election as provided for in the local sales tax law prior to the date such tax is due to expire,  
123 the tax so reimposed shall become effective the first day of the first calendar quarter after the  
124 director receives a certified copy of the ordinance, order or resolution accompanied by a map  
125 clearly showing the boundaries thereof and the results of such election, provided that such  
126 ordinance, order or resolution and all necessary accompanying materials are received by the  
127 director at least thirty days prior to the expiration of such tax. Any administrative cost or  
128 expense incurred by the state as a result of the provisions of this subsection shall be paid by the  
129 city or county reimposing such tax.

          143.782. As used in sections 143.782 to 143.788, unless the context clearly requires  
2 otherwise, the following terms shall mean and include:

3           (1) "Court", the supreme court, court of appeals, or any circuit court of the state;

4           (2) "Debt", any sum due and legally owed to any state agency which has accrued through  
5 contract, subrogation, tort, or operation of law regardless of whether there is an outstanding  
6 judgment for that sum, court costs as defined in section 488.010, RSMo, fines and fees owed,  
7 or any support obligation which is being enforced by the division of family services on behalf  
8 of a person who is receiving support enforcement services pursuant to section 454.425, RSMo;

9           (3) "Debtor", any individual, sole proprietorship, partnership, corporation or other legal  
10 entity owing a debt;

11          (4) "Department", the department of revenue of the state of Missouri;

12          (5) "Refund", the Missouri income tax refund which the department determines to be due  
13 any taxpayer pursuant to the provisions of this chapter. The amount of a refund shall not include  
14 any senior citizens property tax credit provided by sections 135.010 to 135.035, RSMo, **unless**  
15 **such refund is being offset for a delinquency or debt relating to individual income tax or**  
16 **a property tax credit;** and

17          (6) "State agency", any department, division, board, commission, office, or other agency  
18 of the state of Missouri, including public community college district.

          144.083. 1. The director of revenue shall require all persons who are responsible for the  
2 collection of taxes under the provisions of section 144.080 to procure a retail sales license at no  
3 cost to the licensee which shall be prominently displayed at his place of business, and the license  
4 is valid until revoked by the director or surrendered by the person to whom issued when sales  
5 are discontinued. The director shall issue the retail sales license within ten working days  
6 following the receipt of a properly completed application. Any person applying for a retail sales  
7 license or reinstatement of a revoked sales tax license who owes any tax under sections 144.010  
8 to 144.510 **or sections 143.191 to 143.261, RSMo**, must pay the amount due plus interest and

9 penalties before the department may issue the applicant a license or reinstate the revoked license.  
10 All persons beginning business subsequent to August 13, 1986, and who are required to collect  
11 the sales tax shall secure a retail sales license prior to making sales at retail. Such license may,  
12 after ten days' notice, be revoked by the director of revenue only in the event the licensee shall  
13 be in default for a period of sixty days in the payment of any taxes levied under section 144.020  
14 **or sections 143.191 to 143.261, RSMo.**

15 2. The possession of a retail sales license shall be a prerequisite to the issuance of any  
16 city or county occupation license or any state license which is required for conducting any  
17 business where goods are sold at retail. The revocation of a retailer's license by the director shall  
18 render the occupational license or the state license null and void.

19 3. No person responsible for the collection of taxes under section 144.080 shall make  
20 sales at retail unless such person is the holder of a valid retail sales license. After all appeals  
21 have been exhausted, the director of revenue may notify the county or city law enforcement  
22 agency representing the area in which the former licensee's business is located that the retail sales  
23 license of such person has been revoked, and that any county or city occupation license of such  
24 person is also revoked. The county or city may enforce the provisions of this section, and may  
25 prohibit further sales at retail by such person.

644.032. 1. The governing body of any municipality or county may impose, by  
2 ordinance or order, a sales tax in an amount not to exceed one-half of one percent on all retail  
3 sales made in such municipality or county which are subject to taxation under the provisions of  
4 sections 144.010 to 144.525, RSMo. The tax authorized by this section and section 644.033  
5 shall be in addition to any and all other sales taxes allowed by law, except that no ordinance or  
6 order imposing a sales tax under the provisions of this section and section 644.033 shall be  
7 effective unless the governing body of the municipality or county submits to the voters of the  
8 municipality or county, at a municipal, county or state general, primary or special election, a  
9 proposal to authorize the governing body of the municipality or county to impose a tax,  
10 **provided, that the tax authorized by this section shall not be imposed on the sales of food,**  
11 **as defined in section 144.014, RSMo, when imposed by any county with a charter form of**  
12 **government and with more than one million inhabitants.**

13 2. The ballot of submission shall contain, but need not be limited to, the following  
14 language:

15 Shall the municipality (county) of ..... impose a sales tax of ..... (insert amount)  
16 for the purpose of providing funding for ..... (insert either storm water control, or local  
17 parks, or storm water control and local parks) for the municipality (county)?

18 ☐ YES

☐ NO

19

20 If a majority of the votes cast on the proposal by the qualified voters voting thereon are in favor  
21 of the proposal, then the ordinance or order and any amendments thereto shall be in effect on the  
22 first day of the second quarter after the director of revenue receives notice of adoption of the tax.  
23 If a majority of the votes cast by the qualified voters voting are opposed to the proposal, then the  
24 governing body of the municipality or county shall not impose the sales tax authorized in this  
25 section and section 644.033 until the governing body of the municipality or county resubmits  
26 another proposal to authorize the governing body of the municipality or county to impose the  
27 sales tax authorized by this section and section 644.033 and such proposal is approved by a  
28 majority of the qualified voters voting thereon; however, in no event shall a proposal pursuant  
29 to this section and section 644.033 be submitted to the voters sooner than twelve months from  
30 the date of the last proposal pursuant to this section and section 644.033.

31         3. All revenue received by a municipality or county from the tax authorized under the  
32 provisions of this section and section 644.033 shall be deposited in a special trust fund and shall  
33 be used to provide funding for storm water control or for local parks, or both, within such  
34 municipality or county, provided that such revenue may be used for local parks outside such  
35 municipality or county if the municipality or county is engaged in a cooperative agreement  
36 pursuant to section 70.220, RSMo.

37         4. Any funds in such special trust fund which are not needed for current expenditures  
38 may be invested by the governing body in accordance with applicable laws relating to the  
39 investment of other municipal or county funds.