

FIRST REGULAR SESSION

HOUSE BILL NO. 125

94TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE FRANZ.

Pre-filed December 14, 2006 and copies ordered printed.

D. ADAM CRUMBLISS, Chief Clerk

0712L.01I

AN ACT

To repeal sections 52.361, 52.370, 55.140, 55.190, 139.031, 139.140, 139.150, 139.210, 139.220, 140.050, 140.070, 140.080, 140.160, 140.730, and 165.071, RSMo, and to enact in lieu thereof fifteen new sections relating to collection of taxes.

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

Section A. Sections 52.361, 52.370, 55.140, 55.190, 139.031, 139.140, 139.150, 139.210, 139.220, 140.050, 140.070, 140.080, 140.160, 140.730, and 165.071, RSMo, are repealed and fifteen new sections enacted in lieu thereof, to be known as sections 52.361, 52.370, 55.140, 55.190, 139.031, 139.140, 139.150, 139.210, 139.220, 140.050, 140.070, 140.080, 140.160, 140.730, and 165.071, to read as follows:

52.361. It shall be the duty of the county collector in all counties of the first class not having a charter form of government and in class two counties to prepare and keep in **[his] the collector's** office, **electronically or otherwise**, back tax books which shall contain and list all delinquent taxes on real and personal property levied and assessed in the county which remain due and unpaid after the first day of January of each year. Such back tax books shall replace and be in lieu of all "delinquent lists" and other back tax books heretofore prepared by the collector or other county officer.

52.370. All money disbursed by the county collector in counties of the first class not having a charter form of government and in counties of the second class by virtue of **[his] the collector's** office shall be paid by check signed by the collector **[and countersigned by the auditor**

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

4 of the county] , **except that the collector may disburse money by electronic transfer of funds**
5 **from the collector's account into the accounts of the appropriate taxing entities.**

55.140. The county auditor of each county of the first class not having a charter form of
2 government and of each county of the second class shall [countersign] **have access to and**
3 **periodically examine all records, collections, and settlements for** all licenses issued by the
4 county [and shall keep a record of the number, date of issue, the name of the party or parties to
5 whom issued, the occupation, the expiration thereof, and amount of money paid therefor, and to
6 whom paid].

55.190. The county collector of revenue of each county of the first class not having a
2 charter form of government and of each county of the second class shall make [a daily]
3 **available, electronically or otherwise, a** report to the auditor of receipts, **deposits,** and balance
4 in [his] **the collector's** hands[, and where deposited, and shall deliver to the auditor each day a
5 deposit slip showing the day's deposit]. The collector shall, upon receiving taxes, give
6 [duplicate] a numbered tax [receipts, which] **receipt to** the taxpayer [shall take to the auditor to
7 be countersigned by him, one of which the auditor shall retain, and charge the amount thereof
8 to the collector]. The collector shall also make **available, electronically or otherwise,** a [daily]
9 report to the auditor of all other sums of money collected by [him] **the collector** from any source
10 whatsoever, and in such report shall state [from whom collected, and] on what account[, which
11 sums shall be charged by the auditor to the collector] **collected.** The collector shall[, upon
12 turning] **turn** money over to the county treasurer[, take duplicate receipts therefor and file same
13 immediately with the county auditor] **under section 139.210, RSMo.**

139.031. 1. Any taxpayer, **upon total payment of the current tax bill,** may protest all
2 or any part of any current taxes assessed against the taxpayer, except taxes collected by the
3 director of revenue of Missouri. Any such taxpayer desiring to pay any current taxes under
4 protest shall, at the time of paying such taxes, file with the collector a written statement setting
5 forth the grounds on which the protest is based. The statement shall include the true value in
6 money claimed by the taxpayer if disputed.

2. Upon receiving payment of current taxes under protest pursuant to subsection 1 of this
8 section or upon receiving notice of an appeal pursuant to section 138.430, RSMo, the collector
9 shall disburse to the proper official all portions of taxes not disputed by the taxpayer and shall
10 impound in a separate fund all portions of such taxes which are in dispute. Except as provided
11 in subsection 3 of this section, every taxpayer protesting the payment of current taxes shall,
12 within ninety days after filing his protest, commence an action against the collector by filing a
13 petition for the recovery of the amount protested in the circuit court of the county in which the
14 collector maintains his office. If any taxpayer so protesting his taxes shall fail to commence an
15 action in the circuit court for the recovery of the taxes protested within the time prescribed in this

16 subsection, such protest shall become null and void and of no effect, and the collector shall then
17 disburse to the proper official the taxes impounded, and any interest earned thereon, as provided
18 above in this subsection.

19 3. No action against the collector shall be commenced by any taxpayer who has, for the
20 current tax year in issue, filed with the state tax commission a timely and proper appeal of the
21 protested taxes. Such taxpayer shall notify the collector of the appeal in the written statement
22 required by subsection 1 of this section. The taxes so protested shall be impounded in a separate
23 fund and the commission may order all or any part of such taxes refunded to the taxpayer, or may
24 authorize the collector to release and disburse all or any part of such taxes in its decision and
25 order issued pursuant to chapter 138, RSMo.

26 4. Trial of the action in the circuit court shall be in the manner prescribed for nonjury
27 civil proceedings, and, after determination of the issues, the court shall make such orders as may
28 be just and equitable to refund to the taxpayer all or any part of the current taxes paid under
29 protest, together with any interest earned thereon, or to authorize the collector to release and
30 disburse all or any part of the impounded taxes, and any interest earned thereon, to the
31 appropriate officials of the taxing authorities. Either party to the proceedings may appeal the
32 determination of the circuit court.

33 5. All the county collectors of taxes, and the collector of taxes in any city not within a
34 county, shall, upon written application of a taxpayer, refund or credit against the taxpayer's tax
35 liability in the following taxable year and subsequent consecutive taxable years until the taxpayer
36 has received credit in full for any real or personal property tax mistakenly or erroneously levied
37 against the taxpayer and collected in whole or in part by the collector. Such application shall be
38 filed within three years after the tax is mistakenly or erroneously paid. The governing body, or
39 other appropriate body or official of the county or city not within a county, shall make available
40 to the collector funds necessary to make refunds under this subsection by issuing warrants upon
41 the fund to which the mistaken or erroneous payment has been credited, or otherwise.

42 6. No taxpayer shall receive any interest on any money paid in by the taxpayer
43 erroneously.

44 7. All protested taxes shall be invested by the collector in the same manner as assets
45 specified in section 30.260, RSMo, for investment of state moneys. A taxpayer who is entitled
46 to a refund of protested taxes shall also receive the interest earned on the investment thereof. If
47 the collector is ordered to release and disburse all or part of the taxes paid under protest to the
48 proper official, such taxes shall be disbursed along with the proportional amount of interest
49 earned on the investment of the taxes due the particular taxing authority.

50 8. **Any taxing authority may request to be notified by the county collector of**
51 **current taxes paid under protest. Such request shall be in writing and submitted on or**

52 before [March] **February** first next following the delinquent date of **current** taxes paid under
53 protest, **and** the county collector shall [notify any] **provide such information on or before**
54 **March first of the same year to the requesting** taxing authority of the taxes paid under protest
55 which would be received by such taxing authority if the funds were not the subject of a protest.
56 Any taxing authority may apply to the circuit court of the county or city not within a county in
57 which a collector has impounded protested taxes under this section and, upon a satisfactory
58 showing that such taxing authority would receive such impounded tax funds if they were not the
59 subject of a protest and that such taxing authority has the financial ability and legal capacity to
60 repay such impounded tax funds in the event a decision ordering a refund to the taxpayer is
61 subsequently made, the circuit court shall order, pendente lite, the disbursal of all or any part of
62 such impounded tax funds to such taxing authority. The circuit court issuing an order under this
63 subsection shall retain jurisdiction of such matter for further proceedings, if any, to compel
64 restitution of such tax funds to the taxpayer. In the event that any protested tax funds refunded
65 to a taxpayer were disbursed to a taxing authority under this subsection instead of being held and
66 invested by the collector under subsection 7 of this section, such taxing authority shall pay the
67 taxpayer entitled to the refund of such protested taxes the same amount of interest, as determined
68 by the circuit court having jurisdiction in the matter, such protested taxes would have earned if
69 they had been held and invested by the collector.

70 9. No appeal filed shall stay any order of refund, but the decision filed by any court of
71 last review modifying the circuit court's or state tax commission's determination pertaining to
72 the amount of refund shall be binding on the parties, and the decision rendered shall be complied
73 with by the party affected by any modification within ninety days of the date of such decision.
74 No taxpayer shall receive any interest on any additional award of refund, and the collector shall
75 not receive any interest on any ordered return of refund in whole or in part.

139.140. **Except as provided in section 52.361, RSMo**, the personal delinquent lists
2 allowed to any collector shall be delivered to the collector and when [his] **the collector's** term
3 of office expires then to [his] **the** successor, who shall be charged with the full amount thereof,
4 and shall account therefor as for other moneys collected by [him] **the collector**. When [he] **the**
5 **collector** makes [his] **the** next annual settlement [he] **the collector** shall return the lists to the
6 clerk of the county commission, and in the city of St. Louis the lists and the uncollected tax bills
7 to the comptroller of the city, and shall be entitled to credit for the amount [he] **the collector** has
8 been unable to collect. The lists and bills shall be delivered to [his] **the collector's** successor,
9 and so on until the whole are collected.

139.150. And in making collections on the said personal delinquent lists, the said
2 collectors, **except collectors in counties of the first or second classifications**, shall give

3 duplicate receipts therefor, one to be delivered to the person paying the same, and the other to
4 be filed with the clerk of the county commission, who shall charge the collector therewith.

139.210. 1. Every county collector and [ex officio county collector] **collector-treasurer,**
2 **other than the county collector of revenue of each county of the first or second**
3 **classifications and** except in the city of St. Louis, shall, on or before the fifth day of each month,
4 file with the county clerk a detailed statement, verified by affidavit of all state, county, school,
5 road and municipal taxes, and of all licenses by [him] **the collector** collected during the
6 preceding month, and shall, except for tax payments made pursuant to section 139.053, on or
7 before the fifteenth day of the month, pay the same, less [his] **the collector's** commissions, into
8 the county treasuries and to the director of revenue.

9 2. **The county collector of revenue of each county of the first or second**
10 **classifications shall, before the fifteenth day of each month, file with the county clerk and**
11 **auditor a detailed statement, verified by affidavit, of all state, county, school, road, and**
12 **municipal taxes and of all licenses collected by the collector during the preceding month,**
13 **and shall, except for tax payments made under section 139.053, on or before the fifteenth**
14 **day of the month, pay such taxes and licenses, less commissions, into the treasuries of the**
15 **appropriate taxing entities and to the director of revenue.**

16 3. It shall be the duty of the county clerk, and [he] **the clerk** is hereby required, to
17 forward immediately a certified copy of such detailed statement to the director of revenue, who
18 shall keep an account of the state taxes with the collector.

139.220. Every collector of the revenue having made settlement, according to law, of
2 county revenue [by him] collected or received **by the collector**, shall pay the amount found due
3 into the county treasury, and the treasurer shall give [him] **the collector** duplicate receipts
4 therefor, one of which shall be filed in the office of the clerk of the county commission, who
5 shall grant [him] **the collector** full quietus under the seal of the commission.

140.050. 1. **Except as provided in section 52.361, RSMo,** the county clerk shall file
2 the delinquent lists in [his] **the county clerk's** office and within ten days thereafter make, under
3 the seal of the commission, the lists into a back tax book as provided in section 140.060.

4 2. **Except as provided in section 52.361, RSMo,** when completed, the clerk shall
5 deliver the book to the collector taking duplicate receipts therefor, one of which [he] **the clerk**
6 shall file in [his] **the clerk's** office and the other [he] **the clerk** shall file with the director of
7 revenue. The clerk shall charge the collector with the aggregate amount of taxes, interest, and
8 clerk's fees contained in the back tax book.

9 3. The collector shall collect such back taxes and may levy upon, seize and distrain
10 tangible personal property and may sell such property for taxes.

11 4. In the city of St. Louis, the city comptroller or other proper officer shall return the
12 back tax book together with the uncollected tax bills within thirty days to the city collector.

13 5. If any county commission or clerk **in counties not having a county auditor** fails to
14 comply with section 140.040, and this section, to the extent that the collection of taxes cannot
15 be enforced by law, the county commission or clerk, or their successors in office, shall correct
16 such omissions at once and return the back tax book to the collector who shall collect such taxes.

 140.070. All back taxes, of whatever kind, whether state, county or school, or of any city
2 or incorporated town, which return delinquent tax lists to the county collector to collect,
3 appearing due upon delinquent real estates shall be extended in the back tax book made under
4 this chapter **or chapter 52, RSMo**. In case the collector of any city or town has omitted or
5 neglected to return to the county collector a list of delinquent lands and lots, as required by
6 section 140.670, the present authorities of the city or town may cause the delinquent list to be
7 certified, as by that section contemplated, and the delinquent taxes shall be by the county clerk
8 put upon the back tax book and collected by the collector under authority of this chapter.

 140.080. **Except as provided in section 52.361, RSMo**, the county clerk and the county
2 collector shall compare the back tax book with the corrected delinquent land list made pursuant
3 to sections 140.030 and 140.040 respectively, and the clerk shall certify on the delinquent land
4 list on file in **[his] the clerk's** office that the list has been properly entered in the back tax book
5 and shall attach a certificate at the end of the back tax book that it contains a true copy of the
6 delinquent land list on file in **[his] the collector's** office.

 140.160. 1. No proceedings for the sale of land and lots for delinquent taxes pursuant
2 to this chapter or unpaid special assessments as provided in section 67.469, RSMo, relating to
3 the collection of delinquent and back taxes and unpaid special assessments and providing for
4 foreclosure sale and redemption of land and lots therefor, shall be valid unless initial proceedings
5 therefor shall be commenced within three years after delinquency of such taxes and unpaid
6 special assessments, and any sale held pursuant to initial proceedings commenced within such
7 period of three years shall be deemed to have been in compliance with the provisions of said law
8 insofar as the time at which such sales are to be had is specified therein; provided further, that
9 in suits or actions to collect delinquent drainage and/or levee assessments on real estate such
10 suits or actions shall be commenced within three years after delinquency, otherwise no suit or
11 action therefor shall be commenced, had or maintained, except that the three-year limitation
12 described in this subsection shall not be applicable if any written instrument conveys any real
13 estate having a tax-exempt status, if such instrument causes such real estate to again become
14 taxable real property and if such instrument has not been recorded in the office of the recorder
15 in the county in which the real estate has been situated. Such three-year limitation shall only be
16 applicable once the recording of the title has occurred.

17 2. [In order to enable county and city collectors to be able to collect delinquent and back
18 taxes and unpaid special assessments,] The county auditor in all counties having a county auditor
19 shall annually audit [and list all delinquent and back taxes and unpaid special assessments]
20 **collections, deposits, and supporting reports of the collector** and provide a copy of such audit
21 [and list] to the county collector and to the governing body of the county. A copy of the audit
22 [and list] may be provided to [city collectors] **all applicable taxing entities** within the county
23 at the discretion of the county collector.

140.730. 1. Tangible personal property taxes assessed on and after January 1, 1946, and
2 all personal taxes delinquent at that date, shall constitute a debt, as of the date on which such
3 taxes were levied for which a personal judgment may be recovered against the party assessed
4 with such taxes before any court of this state having jurisdiction. **Delinquent personal**
5 **property taxes shall be subject to the same interest and penalties prescribed for delinquent**
6 **real property taxes.**

7 2. All actions commenced pursuant to this law shall be prosecuted in the name of the
8 state of Missouri, at the relation and to the use of the collector and against the person or persons
9 named in the tax bill, and in one petition and in one count thereof may be included the said taxes
10 for all such years as may be delinquent and unpaid, and said taxes shall be set forth in a tax bill
11 or bills of said personal back taxes duly authenticated by the certificate of the collector and filed
12 with the petition; and said tax bill or tax bills so certified shall be prima facie evidence that the
13 amount claimed in said suit is just and correct, and all notices and process in suits pursuant to
14 this chapter shall be sued and served in the same manner as in civil actions, and the general laws
15 of this state as to practice and proceedings and appeals and writs of error in civil cases shall
16 apply, as far as applicable, to the above actions; provided, however, that in no case shall the state,
17 county, city or collector be liable for any costs nor shall any be taxed against them or any of
18 them.

19 3. For the purpose of this chapter, personal tax bills shall become delinquent on the first
20 day of January following the year the taxes are due, and suits thereon may be instituted on and
21 after the first day of February following, and within three years from said day. If the collector,
22 after using due diligence, is unable to collect any personal property taxes charged in the
23 delinquent tax list within three years following the year the taxes are due, the collector may
24 remove such personal property taxes from the delinquent or back taxes books in the same manner
25 as real estate is removed under section 137.260, RSMo. Such abated amounts shall be reported
26 on the annual settlement made by a collector of revenue.

27 4. Said personal tax shall be presented and allowed against the estates of deceased or
28 insolvent debtors, in the same manner and with like effect, as other indebtedness of said debtors.

29 The remedy hereby provided for the collection of personal tax bills is cumulative, and shall not
30 in any manner impair other methods existing or hereafter provided for the collection of the same.

165.071. 1. At least once in every month the county collector in all counties of the first
2 and second classifications and the collector-treasurer in counties having township organization
3 shall pay over to the treasurer of the school board of all seven-director districts all moneys
4 received and collected by the **county collector and the** collector-treasurer to which the board
5 is entitled and take duplicate receipts from the treasurer, one of which the **county collector and**
6 **the** collector-treasurer shall file with the secretary of the school board and the other the **county**
7 **collector and the** collector-treasurer shall file in his or her settlement with the county
8 commission.

9 2. The county collector in counties of the third and fourth classification, except in
10 counties under township organization, shall pay over to the county treasurer at least once in every
11 month all moneys received and collected by the county collector which are due each school
12 district and shall take duplicate receipts therefor, one of which the county collector shall file in
13 his or her settlement with the county commission. The county treasurer in such counties shall
14 pay over to the treasurer of the school board of seven-director districts, at least once in every
15 month, all moneys so received by the county treasurer to which the board is entitled. Upon
16 payment the county treasurer shall take duplicate receipts from the treasurer of the school board,
17 one of which the county treasurer shall file with the secretary of the school board, and the other
18 **[he] the county treasurer** shall file in his or her settlement with the county commission.

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