

FIRST REGULAR SESSION

HOUSE BILL NO. 1295

94TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE FAITH.

Read 1st time March 30, 2007 and copies ordered printed.

D. ADAM CRUMBLISS, Chief Clerk

2781L.01I

AN ACT

To repeal section 238.410, RSMo, and to enact in lieu thereof one new section relating to transit authority sales taxes.

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

Section A. Section 238.410, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 238.410, to read as follows:

238.410. 1. Any county transit authority established pursuant to section 238.400 may impose a sales tax of up to one percent on all retail sales made in such county which are subject to taxation under the provisions of sections 144.010 to 144.525, RSMo. The tax authorized by this section shall be in addition to any and all other sales taxes allowed by law, except that no sales tax imposed under the provisions of this section shall be effective unless the governing body of the county, on behalf of the transit authority, submits to the voters of the county, at a county or state general, primary or special election, a proposal to authorize the transit authority to impose a tax.

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

Shall the Transit Authority impose a countywide sales tax of (insert amount) in order to provide revenues for the operation of transportation facilities operated by the transit authority?

☐ YES

☐ NO

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16 If you are in favor of the question, place an "X" in the box opposite "YES". If you are opposed
17 to the question, place an "X" in the box opposite "NO".

18

19 If a majority of the votes cast on the proposal by the qualified voters voting thereon are in favor
20 of the proposal, then the tax shall become effective on the first day of the second calendar quarter
21 following notification to the department of revenue of adoption of the tax. If a majority of the
22 votes cast by the qualified voters voting are opposed to the proposal, then the transit authority
23 shall have no power to impose the sales tax authorized by this section unless and until another
24 proposal to authorize the transit authority to impose the sales tax authorized by this section has
25 been submitted and such proposal is approved by a majority of the qualified voters voting
26 thereon.

27 3. All revenue received by the transit authority from the tax authorized under the
28 provisions of this section shall be deposited in a special trust fund and shall be used solely by the
29 transit authority for construction, purchase, lease, maintenance and operation of transportation
30 facilities located within the county for so long as the tax shall remain in effect. Any funds in
31 such special trust fund which are not needed for current expenditures may be invested by the
32 transit authority in accordance with applicable laws relating to the investment of county funds.

33 4. No transit authority imposing a sales tax pursuant to this section may repeal or amend
34 such sales tax unless such repeal or amendment is submitted to and approved by the voters of
35 the county in the same manner as provided in subsection 1 of this section for approval of such
36 tax. Whenever the governing body of any county in which a sales tax has been imposed in the
37 manner provided by this section receives a petition, signed by ten percent of the registered voters
38 of such county voting in the last gubernatorial election, calling for an election to repeal such sales
39 tax, the governing body shall submit to the voters of such county a proposal to repeal the sales
40 tax imposed under the provisions of this section. If a majority of the votes cast on the proposal
41 by the registered voters voting thereon are in favor of the proposal to repeal the sales tax, then
42 such sales tax is repealed. If a majority of the votes cast by the registered voters voting thereon
43 are opposed to the proposal to repeal the sales tax, then such sales tax shall remain in effect.

44 5. The sales tax imposed under the provisions of this section shall impose upon all sellers
45 a tax for the privilege of engaging in the business of selling tangible personal property or
46 rendering taxable services at retail to the extent and in the manner provided in sections 144.010
47 to 144.525, RSMo, and the rules and regulations of the director of revenue issued pursuant
48 thereto; except that the rate of the tax shall be the rate approved pursuant to this section. The

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49 amount reported and returned to the director of revenue by the seller shall be computed on the
50 basis of the combined rate of the tax imposed by sections 144.010 to 144.525, RSMo, and the
51 tax imposed by this section, plus any amounts imposed under other provisions of law.

52 6. After the effective date of any tax imposed under the provisions of this section, the
53 director of revenue shall perform all functions incident to the administration, collection,
54 enforcement, and operation of the tax, and the director of revenue shall collect in addition to the
55 sales tax for the state of Missouri the additional tax authorized under the authority of this section.
56 The tax imposed under this section and the tax imposed under the sales tax law of the state of
57 Missouri shall be collected together and reported upon such forms and under such administrative
58 rules and regulations as may be prescribed by the director of revenue. In order to permit sellers
59 required to collect and report the sales tax to collect the amount required to be reported and
60 remitted, but not to change the requirements of reporting or remitting tax or to serve as a levy
61 of the tax, and in order to avoid fractions of pennies, the applicable provisions of section
62 144.285, RSMo, shall apply to all taxable transactions.

63 7. All applicable provisions contained in sections 144.010 to 144.525, RSMo, governing
64 the state sales tax and section 32.057, RSMo, the uniform confidentiality provision, shall apply
65 to the collection of the tax imposed by this section, except as modified in this section. All
66 exemptions granted to agencies of government, organizations, persons and to the sale of certain
67 articles and items of tangible personal property and taxable services under the provisions of
68 sections 144.010 to 144.525, RSMo, are hereby made applicable to the imposition and collection
69 of the tax imposed by this section. The same sales tax permit, exemption certificate and retail
70 certificate required by sections 144.010 to 144.525, RSMo, for the administration and collection
71 of the state sales tax shall satisfy the requirements of this section, and no additional permit or
72 exemption certificate or retail certificate shall be required; except that the director of revenue
73 may prescribe a form of exemption certificate for an exemption from the tax imposed by this
74 section. All discounts allowed the retailer under the provisions of the state sales tax law for the
75 collection of and for payment of taxes under chapter 144, RSMo, are hereby allowed and made
76 applicable to any taxes collected under the provisions of this section. The penalties provided in
77 section 32.057, RSMo, and sections 144.010 to 144.525, RSMo, for a violation of those sections
78 are hereby made applicable to violations of this section.

79 8. For the purposes of a sales tax imposed pursuant to this section, all retail sales shall
80 be deemed to be consummated at the place of business of the retailer, except for tangible
81 personal property sold which is delivered by the retailer or his agent to an out-of-state destination

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82 or to a common carrier for delivery to an out-of-state destination and except for the sale of motor
83 vehicles, trailers, boats and outboard motors, which is provided for in subsection 12 of this
84 section. In the event a retailer has more than one place of business in this state which
85 participates in the sale, the sale shall be deemed to be consummated at the place of business of
86 the retailer where the initial order for the tangible personal property is taken, even though the
87 order must be forwarded elsewhere for acceptance, approval of credit, shipment or billing. A
88 sale by a retailer's employee shall be deemed to be consummated at the place of business from
89 which he works.

90 9. All sales taxes collected by the director of revenue under this section on behalf of any
91 transit authority, less one percent for cost of collection which shall be deposited in the state's
92 general revenue fund after payment of premiums for surety bonds as provided in this section,
93 shall be deposited in the state treasury in a special trust fund, which is hereby created, to be
94 known as the "County Transit Authority Sales Tax Trust Fund". The moneys in the county
95 transit authority sales tax trust fund shall not be deemed to be state funds and shall not be
96 commingled with any funds of the state. The director of revenue shall keep accurate records of
97 the amount of money in the trust fund which was collected in each transit authority imposing a
98 sales tax under this section, and the records shall be open to the inspection of officers of the
99 county and the public. Not later than the tenth day of each month the director of revenue shall
100 distribute all moneys deposited in the trust fund during the preceding month to the transit
101 authority which levied the tax.

102 10. The director of revenue may authorize the state treasurer to make refunds from the
103 amounts in the trust fund and credited to any transit authority for erroneous payments and
104 overpayments made, and may authorize the state treasurer to redeem dishonored checks and
105 drafts deposited to the credit of such transit authorities. If any transit authority abolishes the tax,
106 the transit authority shall notify the director of revenue of the action at least ninety days prior to
107 the effective date of the repeal and the director of revenue may order retention in the trust fund,
108 for a period of one year, of two percent of the amount collected after receipt of such notice to
109 cover possible refunds or overpayment of the tax and to redeem dishonored checks and drafts
110 deposited to the credit of such accounts. After one year has elapsed after the effective date of
111 abolition of the tax in such transit authority, the director of revenue shall authorize the state
112 treasurer to remit the balance in the account to the transit authority and close the account of that
113 transit authority. The director of revenue shall notify each transit authority of each instance of
114 any amount refunded or any check redeemed from receipts due the transit authority. The director

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115 of revenue shall annually report on his management of the trust fund and administration of the
116 sales taxes authorized by this section. He shall provide each transit authority imposing the tax
117 authorized by this section with a detailed accounting of the source of all funds received by him
118 for the transit authority.

119 11. The director of revenue and any of his deputies, assistants and employees, who shall
120 have any duties or responsibilities in connection with the collection, deposit, transfer, transmittal,
121 disbursement, safekeeping, accounting, or recording of funds which come into the hands of the
122 director of revenue under the provisions of this section shall enter a surety bond or bonds payable
123 to any and all transit authorities in whose behalf such funds have been collected under this
124 section in the amount of one hundred thousand dollars; but the director of revenue may enter into
125 a blanket bond or bonds covering himself and all such deputies, assistants and employees. The
126 cost of the premium or premiums for the surety bond or bonds shall be paid by the director of
127 revenue from the share of the collection retained by the director of revenue for the benefit of the
128 state.

129 12. Sales taxes imposed pursuant to this section and use taxes on the purchase and sale
130 of motor vehicles, trailers, boats, and outboard motors shall not be collected and remitted by the
131 seller, but shall be collected by the director of revenue at the time application is made for a
132 certificate of title, if the address of the applicant is within a county where a sales tax is imposed
133 under this section. The amounts so collected, less the one percent collection cost, shall be
134 deposited in the county transit authority sales tax trust fund. The purchase or sale of motor
135 vehicles, trailers, boats, and outboard motors shall be deemed to be consummated at the address
136 of the applicant. As used in this subsection, the term "boat" shall only include motorboats and
137 vessels as the terms "motorboat" and "vessel" are defined in section 306.010, RSMo.

138 13. In any county where the transit authority sales tax has been imposed, if any person
139 is delinquent in the payment of the amount required to be paid by him under this section or in
140 the event a determination has been made against him for taxes and penalty under this section, the
141 limitation for bringing suit for the collection of the delinquent tax and penalty shall be the same
142 as that provided in sections 144.010 to 144.525, RSMo. Where the director of revenue has
143 determined that suit must be filed against any person for the collection of delinquent taxes due
144 the state under the state sales tax law, and where such person is also delinquent in payment of
145 taxes under this section, the director of revenue shall notify the transit authority to which
146 delinquent taxes are due under this section by United States registered mail or certified mail at
147 least ten days before turning the case over to the attorney general. The transit authority, acting

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148 through its attorney, may join in such suit as a party plaintiff to seek a judgment for the
149 delinquent taxes and penalty due such transit authority. In the event any person fails or refuses
150 to pay the amount of any sales tax due under this section, the director of revenue shall promptly
151 notify the transit authority to which the tax would be due so that appropriate action may be taken
152 by the transit authority.

153 14. Where property is seized by the director of revenue under the provisions of any law
154 authorizing seizure of the property of a taxpayer who is delinquent in payment of the tax imposed
155 by the state sales tax law, and where such taxpayer is also delinquent in payment of any tax
156 imposed by this section, the director of revenue shall permit the transit authority to join in any
157 sale of property to pay the delinquent taxes and penalties due the state and to the transit authority
158 under this section. The proceeds from such sale shall first be applied to all sums due the state,
159 and the remainder, if any, shall be applied to all sums due such transit authority under this
160 section.

161 15. The transit authority created under the provisions of sections 238.400 to 238.412
162 shall notify any and all affected businesses of the change in tax rate caused by the imposition of
163 the tax authorized by sections 238.400 to 238.412.

164 **16. In the event that any transit authority in any county with a charter form of**
165 **government and with more than two hundred fifty thousand but fewer than three hundred**
166 **fifty thousand inhabitants submits a proposal in any election to increase the sales tax under**
167 **this section, and such proposal is approved by the voters, the county shall be reimbursed**
168 **for the costs of submitting such proposal from the funds derived from the tax levied under**
169 **this section.**

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