

SECOND REGULAR SESSION

HOUSE BILL NO. 1349

94TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVES PORTWOOD (Sponsor), JONES (89), CUNNINGHAM (86),
LEMBKE AND BIVINS (Co-sponsors).

Pre-filed December 3, 2007 and copies ordered printed.

D. ADAM CRUMBLISS, Chief Clerk

3697L.01I

AN ACT

To repeal section 137.073, RSMo, and to enact in lieu thereof one new section relating to property tax rate revisions.

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

Section A. Section 137.073, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 137.073, to read as follows:

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

- (1) "General reassessment", changes in value, entered in the assessor's books, of a substantial portion of the parcels of real property within a county resulting wholly or partly from reappraisal of value or other actions of the assessor or county equalization body or ordered by the state tax commission or any court;
- (2) "Tax rate", "rate", or "rate of levy", singular or plural, includes the tax rate for each purpose of taxation of property a taxing authority is authorized to levy without a vote and any tax rate authorized by election, including bond interest and sinking fund;
- (3) "Tax rate ceiling", [a] **the** tax rate [as revised] **used** by the taxing authority [to comply with the provisions of this section or when a court has determined] **in the preceding year or** the tax rate **determined by a court**; except that, other provisions of law to the contrary notwithstanding, a school district may levy the operating levy for school purposes required for the current year pursuant to subsection 2 of section 163.021, RSMo, less all adjustments required pursuant to article X, section 22 of the Missouri Constitution, if such tax rate does not exceed

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.

15 the highest tax rate in effect subsequent to the 1980 tax year, **provided that all levy assessments**
16 **shall begin from the preceding year's tax rate.** This is the maximum tax rate that may be
17 levied, unless a higher tax rate ceiling is approved by voters of the political subdivision as
18 provided in this section;

19 (4) "Tax revenue", when referring to the previous year, means the actual receipts from
20 ad valorem levies on all classes of property, including state-assessed property, in the immediately
21 preceding fiscal year of the political subdivision, plus an allowance for taxes billed but not
22 collected in the fiscal year and plus an additional allowance for the revenue which would have
23 been collected from property which was annexed by such political subdivision but which was
24 not previously used in determining tax revenue pursuant to this section. The term "tax revenue"
25 shall not include any receipts from ad valorem levies on any property of a railroad corporation
26 or a public utility, as these terms are defined in section 386.020, RSMo, which were assessed by
27 the assessor of a county or city in the previous year but are assessed by the state tax commission
28 in the current year. All school districts and those counties levying sales taxes pursuant to chapter
29 67, RSMo, shall include in the calculation of tax revenue an amount equivalent to that by which
30 they reduced property tax levies as a result of sales tax pursuant to section 67.505, RSMo, and
31 section 164.013, RSMo, or as excess home dock city or county fees as provided in subsection
32 4 of section 313.820, RSMo, in the immediately preceding fiscal year but not including any
33 amount calculated to adjust for prior years. For purposes of political subdivisions which were
34 authorized to levy a tax in the prior year but which did not levy such tax or levied a reduced rate,
35 the term "tax revenue", as used in relation to the revision of tax levies mandated by law, shall
36 mean the revenues equal to the amount that would have been available if the voluntary rate
37 reduction had not been made.

38 2. Whenever changes in assessed valuation are entered in the assessor's books for any
39 personal property, in the aggregate, or for any subclass of real property as such subclasses are
40 established in section 4(b) of article X of the Missouri Constitution and defined in section
41 137.016, the county clerk in all counties and the assessor of St. Louis City shall notify each
42 political subdivision wholly or partially within the county or St. Louis City of the change in
43 valuation of each subclass of real property, individually, and personal property, in the aggregate,
44 exclusive of new construction and improvements. All political subdivisions shall immediately
45 revise the applicable rates of levy for each purpose for each subclass of real property,
46 individually, and personal property, in the aggregate, for which taxes are levied to the extent
47 necessary to produce from all taxable property, exclusive of new construction and improvements,
48 substantially the same amount of tax revenue as was produced in the previous year for each
49 subclass of real property, individually, and personal property, in the aggregate, except that the
50 rate may not exceed the greater of the rate in effect in the 1984 tax year or the [most recent

51 voter-approved] **preceding year's tax** rate. Such tax revenue shall not include any receipts from
52 ad valorem levies on any real property which was assessed by the assessor of a county or city in
53 such previous year but is assessed by the assessor of a county or city in the current year in a
54 different subclass of real property. Where the taxing authority is a school district for the
55 purposes of revising the applicable rates of levy for each subclass of real property, the tax
56 revenues from state-assessed railroad and utility property shall be apportioned and attributed to
57 each subclass of real property based on the percentage of the total assessed valuation of the
58 county that each subclass of real property represents in the current taxable year. As provided in
59 section 22 of article X of the constitution, a political subdivision may also revise each levy to
60 allow for inflationary assessment growth occurring within the political subdivision. The
61 inflationary growth factor for any such subclass of real property or personal property shall be
62 limited to the actual assessment growth in such subclass or class, exclusive of new construction
63 and improvements, and exclusive of the assessed value on any real property which was assessed
64 by the assessor of a county or city in the current year in a different subclass of real property, but
65 not to exceed the consumer price index or five percent, whichever is lower. Should the tax
66 revenue of a political subdivision from the various tax rates determined in this subsection be
67 different than the tax revenue that would have been determined from a single tax rate as
68 calculated pursuant to the method of calculation in this subsection prior to January 1, 2003, then
69 the political subdivision shall revise the tax rates of those subclasses of real property,
70 individually, and/or personal property, in the aggregate, in which there is a tax rate reduction,
71 pursuant to the provisions of this subsection. Such revision shall yield an amount equal to such
72 difference and shall be apportioned among such subclasses of real property, individually, and/or
73 personal property, in the aggregate, based on the relative assessed valuation of the class or
74 subclasses of property experiencing a tax rate reduction. Such revision in the tax rates of each
75 class or subclass shall be made by computing the percentage of current year adjusted assessed
76 valuation of each class or subclass with a tax rate reduction to the total current year adjusted
77 assessed valuation of the class or subclasses with a tax rate reduction, multiplying the resulting
78 percentages by the revenue difference between the single rate calculation and the calculations
79 pursuant to this subsection and dividing by the respective adjusted current year assessed
80 valuation of each class or subclass to determine the adjustment to the rate to be levied upon each
81 class or subclass of property. The adjustment computed herein shall be multiplied by one
82 hundred, rounded to four decimals in the manner provided in this subsection, and added to the
83 initial rate computed for each class or subclass of property. Notwithstanding any provision of
84 this subsection to the contrary, no revision to the rate of levy for personal property shall cause
85 such levy to increase over the levy for personal property from the prior year.

86 3. (1) Where the taxing authority is a school district, it shall be required to revise the
87 rates of levy **from the preceding year's tax rate** to the extent necessary to produce from all
88 taxable property, including state-assessed railroad and utility property, which shall be separately
89 estimated in addition to other data required in complying with section 164.011, RSMo,
90 substantially the amount of tax revenue permitted in this section. In the year following tax rate
91 reduction, the tax rate ceiling may be adjusted to offset such district's reduction in the
92 apportionment of state school moneys due to its reduced tax rate. However, in the event any
93 school district, in calculating a tax rate ceiling pursuant to this section, requiring the estimating
94 of effects of state-assessed railroad and utility valuation or loss of state aid, discovers that the
95 estimates used result in receipt of excess revenues, which would have required a lower rate if the
96 actual information had been known, the school district shall reduce the tax rate ceiling in the
97 following year to compensate for the excess receipts, and the recalculated rate shall become the
98 tax rate ceiling for purposes of this section.

99 (2) For any political subdivision which experiences a reduction in the amount of assessed
100 valuation relating to a prior year, due to decisions of the state tax commission or a court pursuant
101 to sections 138.430 to 138.433, RSMo, or due to clerical errors or corrections in the calculation
102 or recordation of any assessed valuation:

103 (a) Such political subdivision may revise the tax rate ceiling for each purpose it levies
104 taxes to compensate for the reduction in assessed value occurring after the political subdivision
105 calculated the tax rate ceiling for the particular subclass of real property or for personal property,
106 in the aggregate, in the prior year. Such revision by the political subdivision shall be made at the
107 time of the next calculation of the tax rate for the particular subclass of real property or for
108 personal property, in the aggregate, after the reduction in assessed valuation has been determined
109 and shall be calculated in a manner that results in the revised tax rate ceiling being the same as
110 it would have been had the corrected or finalized assessment been available at the time of the
111 prior calculation;

112 (b) In addition, for up to three years following the determination of the reduction in
113 assessed valuation as a result of circumstances defined in this subdivision, such political
114 subdivision may levy a tax rate for each purpose it levies taxes above the revised tax rate ceiling
115 provided in paragraph (a) of this subdivision to recoup any revenues it was entitled to receive for
116 the three-year period preceding such determination.

117 4. (1) In order to implement the provisions of this section and section 22 of article X of
118 the Constitution of Missouri, the term "improvements" shall apply to both real and personal
119 property. In order to determine the value of new construction and improvements, each county
120 assessor shall maintain a record of real property valuations in such a manner as to identify each
121 year the increase in valuation for each political subdivision in the county as a result of new

construction and improvements. The value of new construction and improvements shall include the additional assessed value of all improvements or additions to real property which were begun after and were not part of the prior year's assessment, except that the additional assessed value of all improvements or additions to real property which had been totally or partially exempt from ad valorem taxes pursuant to sections 99.800 to 99.865, RSMo, sections 135.200 to 135.255, RSMo, and section 353.110, RSMo, shall be included in the value of new construction and improvements when the property becomes totally or partially subject to assessment and payment of all ad valorem taxes. The aggregate increase in valuation of personal property for the current year over that of the previous year is the equivalent of the new construction and improvements factor for personal property. Notwithstanding any opt-out implemented pursuant to subsection 15 of section 137.115, the assessor shall certify the amount of new construction and improvements and the amount of assessed value on any real property which was assessed by the assessor of a county or city in such previous year but is assessed by the assessor of a county or city in the current year in a different subclass of real property separately for each of the three subclasses of real property for each political subdivision to the county clerk in order that political subdivisions shall have this information for the purpose of calculating tax rates pursuant to this section and section 22, article X, Constitution of Missouri. In addition, the state tax commission shall certify each year to each county clerk the increase in the general price level as measured by the Consumer Price Index for All Urban Consumers for the United States, or its successor publications, as defined and officially reported by the United States Department of Labor, or its successor agency. The state tax commission shall certify the increase in such index on the latest twelve-month basis available on June first of each year over the immediately preceding prior twelve-month period in order that political subdivisions shall have this information available in setting their tax rates according to law and section 22 of article X of the Constitution of Missouri. For purposes of implementing the provisions of this section and section 22 of article X of the Missouri Constitution, the term "property" means all taxable property, including state-assessed property.

(2) Each political subdivision required to revise rates of levy pursuant to this section or section 22 of article X of the Constitution of Missouri shall calculate each tax rate it is authorized to levy and, in establishing each tax rate, shall consider each provision for tax rate revision provided in this section and section 22 of article X of the Constitution of Missouri, separately and without regard to annual tax rate reductions provided in section 67.505, RSMo, and section 164.013, RSMo. Each political subdivision shall set each tax rate it is authorized to levy using the calculation that produces the lowest tax rate ceiling. It is further the intent of the general assembly, pursuant to the authority of section 10(c) of article X of the Constitution of Missouri, that the provisions of such section be applicable to tax rate revisions mandated pursuant to

section 22 of article X of the Constitution of Missouri as to reestablishing tax rates as revised in subsequent years, enforcement provisions, and other provisions not in conflict with section 22 of article X of the Constitution of Missouri. Annual tax rate reductions provided in section 67.505, RSMo, and section 164.013, RSMo, shall be applied to the tax rate as established pursuant to this section and section 22 of article X of the Constitution of Missouri, unless otherwise provided by law.

5. (1) In all political subdivisions, the tax rate ceiling established pursuant to this section shall not be increased unless approved by a vote of the people. Approval of the higher tax rate shall be by at least a majority of votes cast. When a proposed higher tax rate requires approval by more than a simple majority pursuant to any provision of law or the constitution, the tax rate increase must receive approval by at least the majority required.

(2) When voters approve an increase in the tax rate, the amount of the increase shall be added to the tax rate ceiling as calculated pursuant to this section to the extent the total rate does not exceed any maximum rate prescribed by law. **The amount of revenue received from the voter-approved increase in the tax rate shall not exceed the revenue derived by applying the levy increase to the preceding year's assessed valuation as certified by the state tax commission.** If a ballot question presents a stated tax rate for approval rather than describing the amount of increase in the question, the stated tax rate approved shall be the current tax rate ceiling. The increased tax rate ceiling as approved may be applied to the total assessed valuation of the political subdivision at the setting of the next tax rate.

(3) The governing body of any political subdivision may levy a tax rate lower than its tax rate ceiling [and may increase that lowered tax rate to a level not exceeding the tax rate ceiling without voter approval].

6. (1) For the purposes of calculating state aid for public schools pursuant to section 163.031, RSMo, each taxing authority which is a school district shall determine its proposed tax rate as a blended rate of the classes or subclasses of property. Such blended rate shall be calculated by first determining the total tax revenue of the property within the jurisdiction of the taxing authority, which amount shall be equal to the sum of the products of multiplying the assessed valuation of each class and subclass of property by the corresponding tax rate for such class or subclass, then dividing the total tax revenue by the total assessed valuation of the same jurisdiction, and then multiplying the resulting quotient by a factor of one hundred. Where the taxing authority is a school district, such blended rate shall also be used by such school district for calculating revenue from state-assessed railroad and utility property as defined in chapter 151, RSMo, and for apportioning the tax rate by purpose.

(2) Each taxing authority proposing to levy a tax rate in any year shall notify the clerk of the county commission in the county or counties where the tax rate applies of its tax rate

194 ceiling and its proposed tax rate. Each taxing authority shall express its proposed tax rate in a
195 fraction equal to the nearest one-tenth of a cent, unless its proposed tax rate is in excess of one
196 dollar, then one/one-hundredth of a cent. If a taxing authority shall round to one/one-hundredth
197 of a cent, it shall round up a fraction greater than or equal to five/one-thousandth of one cent to
198 the next higher one/one-hundredth of a cent; if a taxing authority shall round to one-tenth of a
199 cent, it shall round up a fraction greater than or equal to five/one-hundredths of a cent to the next
200 higher one-tenth of a cent. Any taxing authority levying a property tax rate shall provide data,
201 in such form as shall be prescribed by the state auditor by rule, substantiating such tax rate
202 complies with Missouri law. All forms for the calculation of rates pursuant to this section shall
203 be promulgated as a rule and shall not be incorporated by reference. The state auditor shall
204 promulgate rules for any and all forms for the calculation of rates pursuant to this section which
205 do not currently exist in rule form or that have been incorporated by reference. In addition, each
206 taxing authority proposing to levy a tax rate for debt service shall provide data, in such form as
207 shall be prescribed by the state auditor by rule, substantiating the tax rate for debt service
208 complies with Missouri law. A tax rate proposed for annual debt service requirements will be
209 prima facie valid if, after making the payment for which the tax was levied, bonds remain
210 outstanding and the debt fund reserves do not exceed the following year's payments. The county
211 clerk shall keep on file and available for public inspection all such information for a period of
212 three years. The clerk shall, within three days of receipt, forward a copy of the notice of a taxing
213 authority's tax rate ceiling and proposed tax rate and any substantiating data to the state auditor.
214 The state auditor shall, within fifteen days of the date of receipt, examine such information and
215 return to the county clerk his or her findings as to compliance of the tax rate ceiling with this
216 section and as to compliance of any proposed tax rate for debt service with Missouri law. If the
217 state auditor believes that a taxing authority's proposed tax rate does not comply with Missouri
218 law, then the state auditor's findings shall include a recalculated tax rate, and the state auditor
219 may request a taxing authority to submit documentation supporting such taxing authority's
220 proposed tax rate. The county clerk shall immediately forward a copy of the auditor's findings
221 to the taxing authority and shall file a copy of the findings with the information received from
222 the taxing authority. The taxing authority shall have fifteen days from the date of receipt from
223 the county clerk of the state auditor's findings and any request for supporting documentation to
224 accept or reject in writing the rate change certified by the state auditor and to submit all requested
225 information to the state auditor. A copy of the taxing authority's acceptance or rejection and any
226 information submitted to the state auditor shall also be mailed to the county clerk. If a taxing
227 authority rejects a rate change certified by the state auditor and the state auditor does not receive
228 supporting information which justifies the taxing authority's original or any subsequent proposed
229 tax rate, then the state auditor shall refer the perceived violations of such taxing authority to the

230 attorney general's office and the attorney general is authorized to obtain injunctive relief to
231 prevent the taxing authority from levying a violative tax rate.

232 7. No tax rate shall be extended on the tax rolls by the county clerk unless the political
233 subdivision has complied with the foregoing provisions of this section.

234 8. Whenever a taxpayer has cause to believe that a taxing authority has not complied
235 with the provisions of this section, the taxpayer may make a formal complaint with the
236 prosecuting attorney of the county. Where the prosecuting attorney fails to bring an action within
237 ten days of the filing of the complaint, the taxpayer may bring a civil action pursuant to this
238 section and institute an action as representative of a class of all taxpayers within a taxing
239 authority if the class is so numerous that joinder of all members is impracticable, if there are
240 questions of law or fact common to the class, if the claims or defenses of the representative
241 parties are typical of the claims or defenses of the class, and if the representative parties will
242 fairly and adequately protect the interests of the class. In any class action maintained pursuant
243 to this section, the court may direct to the members of the class a notice to be published at least
244 once each week for four consecutive weeks in a newspaper of general circulation published in
245 the county where the civil action is commenced and in other counties within the jurisdiction of
246 a taxing authority. The notice shall advise each member that the court will exclude him or her
247 from the class if he or she so requests by a specified date, that the judgment, whether favorable
248 or not, will include all members who do not request exclusion, and that any member who does
249 not request exclusion may, if he or she desires, enter an appearance. In any class action brought
250 pursuant to this section, the court, in addition to the relief requested, shall assess against the
251 taxing authority found to be in violation of this section the reasonable costs of bringing the
252 action, including reasonable attorney's fees, provided no attorney's fees shall be awarded any
253 attorney or association of attorneys who receive public funds from any source for their services.
254 Any action brought pursuant to this section shall be set for hearing as soon as practicable after
255 the cause is at issue.

256 9. If in any action, including a class action, the court issues an order requiring a taxing
257 authority to revise the tax rates as provided in this section or enjoins a taxing authority from the
258 collection of a tax because of its failure to revise the rate of levy as provided in this section, any
259 taxpayer paying his or her taxes when an improper rate is applied has erroneously paid his or her
260 taxes in part, whether or not the taxes are paid under protest as provided in section 139.031,
261 RSMo. The part of the taxes paid erroneously is the difference in the amount produced by the
262 original levy and the amount produced by the revised levy. The township or county collector of
263 taxes or the collector of taxes in any city shall refund the amount of the tax erroneously paid.
264 The taxing authority refusing to revise the rate of levy as provided in this section shall make
265 available to the collector all funds necessary to make refunds pursuant to this subsection. No

266 taxpayer shall receive any interest on any money erroneously paid by him or her pursuant to this
267 subsection. Effective in the 1994 tax year, nothing in this section shall be construed to require
268 a taxing authority to refund any tax erroneously paid prior to or during the third tax year
269 preceding the current tax year.

270 10. A taxing authority, including but not limited to a township, county collector, or
271 collector of taxes, responsible for determining and collecting the amount of residential real
272 property tax levied in its jurisdiction, shall report such amount of tax collected by December
273 thirty-first of each year such property is assessed to the state tax commission. The state tax
274 commission shall compile the tax data by county or taxing jurisdiction and submit a report to the
275 general assembly no later than January thirty-first of the following year.

276 11. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that
277 is created under the authority delegated in this section shall become effective only if it complies
278 with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section
279 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers
280 vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the
281 effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the
282 grant of rulemaking authority and any rule proposed or adopted after August 28, 2004, shall be
283 invalid and void.

✓