

SECOND REGULAR SESSION

HOUSE BILL NO. 2258

95TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVES BIVINS (Sponsor),
SCHOEMEHL AND ENGLUND (Co-sponsors).

3756L.02I

D. ADAM CRUMBLISS, Chief Clerk

AN ACT

To repeal section 137.073, RSMo, and to enact in lieu thereof one new section relating to revisions of prior tax levies.

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Section A. Section 137.073, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 137.073, to read as follows: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 tax rate as revised by the taxing authority to comply with the provisions of this section or when a court has determined the tax rate; 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 the highest tax rate in effect subsequent to the 1980 tax year. This is the maximum tax rate that may be levied, unless a higher tax rate ceiling is approved by voters of the political subdivision as provided in this section;

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.

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

36 2. Whenever changes in assessed valuation are entered in the assessor's books for any
37 personal property, in the aggregate, or for any subclass of real property as such subclasses are
38 established in section 4(b) of article X of the Missouri Constitution and defined in section
39 137.016, the county clerk in all counties and the assessor of St. Louis City shall notify each
40 political subdivision wholly or partially within the county or St. Louis City of the change in
41 valuation of each subclass of real property, individually, and personal property, in the aggregate,
42 exclusive of new construction and improvements. All political subdivisions shall immediately
43 revise the applicable rates of levy for each purpose for each subclass of real property,
44 individually, and personal property, in the aggregate, for which taxes are levied to the extent
45 necessary to produce from all taxable property, exclusive of new construction and improvements,
46 substantially the same amount of tax revenue as was produced in the previous year for each
47 subclass of real property, individually, and personal property, in the aggregate, except that the
48 rate may not exceed the most recent voter-approved rate. Such tax revenue shall not include any
49 receipts from ad valorem levies on any real property which was assessed by the assessor of a
50 county or city in such previous year but is assessed by the assessor of a county or city in the
51 current year in a different subclass of real property. Where the taxing authority is a school
52 district for the purposes of revising the applicable rates of levy for each subclass of real property,

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

83 3. (1) Where the taxing authority is a school district, it shall be required to revise the
84 rates of levy to the extent necessary to produce from all taxable property, including state-assessed
85 railroad and utility property, which shall be separately estimated in addition to other data
86 required in complying with section 164.011, RSMo, substantially the amount of tax revenue
87 permitted in this section. In the year following tax rate reduction, the tax rate ceiling may be
88 adjusted to offset such district's reduction in the apportionment of state school moneys due to its

89 reduced tax rate. However, in the event any school district, in calculating a tax rate ceiling
90 pursuant to this section, requiring the estimating of effects of state-assessed railroad and utility
91 valuation or loss of state aid, discovers that the estimates used result in receipt of excess
92 revenues, which would have required a lower rate if the actual information had been known, the
93 school district shall reduce the tax rate ceiling in the following year to compensate for the excess
94 receipts, and the recalculated rate shall become the tax rate ceiling for purposes of this section.

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

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

108 (b) In addition, for up to three years following the determination of the reduction in
109 assessed valuation as a result of circumstances defined in this subdivision, such political
110 subdivision may levy a tax rate for each purpose it levies taxes above the revised tax rate ceiling
111 provided in paragraph (a) of this subdivision to recoup any revenues it was entitled to receive had
112 the corrected or finalized assessment been available at the time of the prior calculation.

113 4. (1) In order to implement the provisions of this section and section 22 of article X of
114 the Constitution of Missouri, the term "improvements" shall apply to both real and personal
115 property. In order to determine the value of new construction and improvements, each county
116 assessor shall maintain a record of real property valuations in such a manner as to identify each
117 year the increase in valuation for each political subdivision in the county as a result of new
118 construction and improvements. The value of new construction and improvements shall include
119 the additional assessed value of all improvements or additions to real property which were begun
120 after and were not part of the prior year's assessment, except that the additional assessed value
121 of all improvements or additions to real property which had been totally or partially exempt from
122 ad valorem taxes pursuant to sections 99.800 to 99.865, RSMo, sections 135.200 to 135.255,
123 RSMo, and section 353.110, RSMo, shall be included in the value of new construction and
124 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 February 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.

160 5. (1) In all political subdivisions, the tax rate ceiling established pursuant to this section
161 shall not be increased unless approved by a vote of the people. Approval of the higher tax rate
162 shall be by at least a majority of votes cast. When a proposed higher tax rate requires approval
163 by more than a simple majority pursuant to any provision of law or the constitution, the tax rate
164 increase must receive approval by at least the majority required.

165 (2) When voters approve an increase in the tax rate, the amount of the increase shall be
166 added to the tax rate ceiling as calculated pursuant to this section to the extent the total rate does
167 not exceed any maximum rate prescribed by law. If a ballot question presents a stated tax rate
168 for approval rather than describing the amount of increase in the question, the stated tax rate
169 approved shall be adjusted as provided in this section and, so adjusted, shall be the current tax
170 rate ceiling. The increased tax rate ceiling as approved shall be adjusted such that when applied
171 to the current total assessed valuation of the political subdivision, excluding new construction
172 and improvements since the date of the election approving such increase, the revenue derived
173 from the adjusted tax rate ceiling is equal to the sum of: the amount of revenue which would
174 have been derived by applying the voter-approved increased tax rate ceiling to total assessed
175 valuation of the political subdivision, as most recently certified by the city or county clerk on or
176 before the date of the election in which such increase is approved, increased by the percentage
177 increase in the consumer price index, as provided by law. Such adjusted tax rate ceiling may be
178 applied to the total assessed valuation of the political subdivision at the setting of the next tax
179 rate. If a ballot question presents a phased-in tax rate increase, upon voter approval, each tax rate
180 increase shall be adjusted in the manner prescribed in this section to yield the sum of: the
181 amount of revenue that would be derived by applying such voter-approved increased rate to the
182 total assessed valuation, as most recently certified by the city or county clerk on or before the
183 date of the election in which such increase was approved, increased by the percentage increase
184 in the consumer price index, as provided by law, from the date of the election to the time of such
185 increase and, so adjusted, shall be the current tax rate ceiling. **For political subdivisions that**
186 **levy separate tax rates on each subclass of real property and personal property in the**
187 **aggregate, if voters approve a ballot that presents separate stated tax rates to be applied**
188 **to the different subclasses of real property and personal property in the aggregate, or**
189 **increases the separate rates that may be levied on the different subclasses of real property**
190 **and personal property in the aggregate by different amounts, then the tax rate that shall**
191 **be used for the single rate calculation under subsection 2 of this section shall be a blended**
192 **rate, which shall be calculated in the manner described in subdivision (1) of subsection 6**
193 **of this section.**

194 (3) The governing body of any political subdivision may levy a tax rate lower than its
195 tax rate ceiling and may, in a nonreassessment year, increase that lowered tax rate to a level not

196 exceeding the tax rate ceiling without voter approval in the manner provided under subdivision
197 (4) of this subsection. Nothing in this section shall be construed as prohibiting a political
198 subdivision from voluntarily levying a tax rate lower than that which is required under the
199 provisions of this section or from seeking voter approval of a reduction to such political
200 subdivision's tax rate ceiling.

201 (4) In a year of general reassessment, a governing body whose tax rate is lower than its
202 tax rate ceiling shall revise its tax rate pursuant to the provisions of subsection 4 of this section
203 as if its tax rate was at the tax rate ceiling. In a year following general reassessment, if such
204 governing body intends to increase its tax rate, the governing body shall conduct a public
205 hearing, and in a public meeting it shall adopt an ordinance, resolution, or policy statement
206 justifying its action prior to setting and certifying its tax rate. The provisions of this subdivision
207 shall not apply to any political subdivision which levies a tax rate lower than its tax rate ceiling
208 solely due to a reduction required by law resulting from sales tax collections. The provisions of
209 this subdivision shall not apply to any political subdivision which has received voter approval
210 for an increase to its tax rate ceiling subsequent to setting its most recent tax rate.

211 6. (1) For the purposes of calculating state aid for public schools pursuant to section
212 163.031, RSMo, each taxing authority which is a school district shall determine its proposed tax
213 rate as a blended rate of the classes or subclasses of property. Such blended rate shall be
214 calculated by first determining the total tax revenue of the property within the jurisdiction of the
215 taxing authority, which amount shall be equal to the sum of the products of multiplying the
216 assessed valuation of each class and subclass of property by the corresponding tax rate for such
217 class or subclass, then dividing the total tax revenue by the total assessed valuation of the same
218 jurisdiction, and then multiplying the resulting quotient by a factor of one hundred. Where the
219 taxing authority is a school district, such blended rate shall also be used by such school district
220 for calculating revenue from state-assessed railroad and utility property as defined in chapter 151,
221 RSMo, and for apportioning the tax rate by purpose.

222 (2) Each taxing authority proposing to levy a tax rate in any year shall notify the clerk
223 of the county commission in the county or counties where the tax rate applies of its tax rate
224 ceiling and its proposed tax rate. Each taxing authority shall express its proposed tax rate in a
225 fraction equal to the nearest one-tenth of a cent, unless its proposed tax rate is in excess of one
226 dollar, then one/one-hundredth of a cent. If a taxing authority shall round to one/one-hundredth
227 of a cent, it shall round up a fraction greater than or equal to five/one-thousandth of one cent to
228 the next higher one/one-hundredth of a cent; if a taxing authority shall round to one-tenth of a
229 cent, it shall round up a fraction greater than or equal to five/one-hundredths of a cent to the next
230 higher one-tenth of a cent. Any taxing authority levying a property tax rate shall provide data,
231 in such form as shall be prescribed by the state auditor by rule, substantiating such tax rate

complies with Missouri law. All forms for the calculation of rates pursuant to this section shall be promulgated as a rule and shall not be incorporated by reference. The state auditor shall promulgate rules for any and all forms for the calculation of rates pursuant to this section which do not currently exist in rule form or that have been incorporated by reference. In addition, each taxing authority proposing to levy a tax rate for debt service shall provide data, in such form as shall be prescribed by the state auditor by rule, substantiating the tax rate for debt service complies with Missouri law. A tax rate proposed for annual debt service requirements will be prima facie valid if, after making the payment for which the tax was levied, bonds remain outstanding and the debt fund reserves do not exceed the following year's payments. The county clerk shall keep on file and available for public inspection all such information for a period of three years. The clerk shall, within three days of receipt, forward a copy of the notice of a taxing authority's tax rate ceiling and proposed tax rate and any substantiating data to the state auditor. The state auditor shall, within fifteen days of the date of receipt, examine such information and return to the county clerk his or her findings as to compliance of the tax rate ceiling with this section and as to compliance of any proposed tax rate for debt service with Missouri law. If the state auditor believes that a taxing authority's proposed tax rate does not comply with Missouri law, then the state auditor's findings shall include a recalculated tax rate, and the state auditor may request a taxing authority to submit documentation supporting such taxing authority's proposed tax rate. The county clerk shall immediately forward a copy of the auditor's findings to the taxing authority and shall file a copy of the findings with the information received from the taxing authority. The taxing authority shall have fifteen days from the date of receipt from the county clerk of the state auditor's findings and any request for supporting documentation to accept or reject in writing the rate change certified by the state auditor and to submit all requested information to the state auditor. A copy of the taxing authority's acceptance or rejection and any information submitted to the state auditor shall also be mailed to the county clerk. If a taxing authority rejects a rate change certified by the state auditor and the state auditor does not receive supporting information which justifies the taxing authority's original or any subsequent proposed tax rate, then the state auditor shall refer the perceived violations of such taxing authority to the attorney general's office and the attorney general is authorized to obtain injunctive relief to prevent the taxing authority from levying a violative tax rate.

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

8. Whenever a taxpayer has cause to believe that a taxing authority has not complied with the provisions of this section, the taxpayer may make a formal complaint with the prosecuting attorney of the county. Where the prosecuting attorney fails to bring an action within ten days of the filing of the complaint, the taxpayer may bring a civil action pursuant to this

section and institute an action as representative of a class of all taxpayers within a taxing authority if the class is so numerous that joinder of all members is impracticable, if there are questions of law or fact common to the class, if the claims or defenses of the representative parties are typical of the claims or defenses of the class, and if the representative parties will fairly and adequately protect the interests of the class. In any class action maintained pursuant to this section, the court may direct to the members of the class a notice to be published at least once each week for four consecutive weeks in a newspaper of general circulation published in the county where the civil action is commenced and in other counties within the jurisdiction of a taxing authority. The notice shall advise each member that the court will exclude him or her from the class if he or she so requests by a specified date, that the judgment, whether favorable or not, will include all members who do not request exclusion, and that any member who does not request exclusion may, if he or she desires, enter an appearance. In any class action brought pursuant to this section, the court, in addition to the relief requested, shall assess against the taxing authority found to be in violation of this section the reasonable costs of bringing the action, including reasonable attorney's fees, provided no attorney's fees shall be awarded any attorney or association of attorneys who receive public funds from any source for their services. Any action brought pursuant to this section shall be set for hearing as soon as practicable after the cause is at issue.

9. If in any action, including a class action, the court issues an order requiring a taxing authority to revise the tax rates as provided in this section or enjoins a taxing authority from the collection of a tax because of its failure to revise the rate of levy as provided in this section, any taxpayer paying his or her taxes when an improper rate is applied has erroneously paid his or her taxes in part, whether or not the taxes are paid under protest as provided in section 139.031, RSMo, or otherwise contested. The part of the taxes paid erroneously is the difference in the amount produced by the original levy and the amount produced by the revised levy. The township or county collector of taxes or the collector of taxes in any city shall refund the amount of the tax erroneously paid. The taxing authority refusing to revise the rate of levy as provided in this section shall make available to the collector all funds necessary to make refunds pursuant to this subsection. No taxpayer shall receive any interest on any money erroneously paid by him or her pursuant to this subsection. Effective in the 1994 tax year, nothing in this section shall be construed to require a taxing authority to refund any tax erroneously paid prior to or during the third tax year preceding the current tax year.

10. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers

304 vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the
305 effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the
306 grant of rulemaking authority and any rule proposed or adopted after August 28, 2004, shall be
307 invalid and void.

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