

SECOND REGULAR SESSION

# HOUSE BILL NO. 1424

## 95TH GENERAL ASSEMBLY

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INTRODUCED BY REPRESENTATIVE FRANZ.

3966L.01I

D. ADAM CRUMBLISS, Chief Clerk

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### AN ACT

To repeal sections 52.290, 52.312, 52.361, 52.370, 54.010, 55.140, 55.190, 139.031, 139.140, 139.150, 139.210, 139.220, 140.050, 140.070, 140.080, 140.160, and 165.071, RSMo, and to enact in lieu thereof seventeen new sections relating to collection of taxes.

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

Section A. Sections 52.290, 52.312, 52.361, 52.370, 54.010, 55.140, 55.190, 139.031, 139.140, 139.150, 139.210, 139.220, 140.050, 140.070, 140.080, 140.160, and 165.071, RSMo, are repealed and seventeen new sections enacted in lieu thereof, to be known as sections 52.290, 52.312, 52.361, 52.370, 54.010, 55.140, 55.190, 139.031, 139.140, 139.150, 139.210, 139.220, 140.050, 140.070, 140.080, 140.160, and 165.071, to read as follows:

52.290. 1. In all counties except counties having a charter form of government **before January 1, 2008**, and any city not within a county, the collector shall collect on behalf of the county a fee for the collection of delinquent and back taxes of seven percent on all sums collected to be added to the face of the tax bill and collected from the party paying the tax. Two-sevenths of the fees collected pursuant to the provisions of this section shall be paid into the county general fund, two-sevenths of the fees collected pursuant to the provisions of this section shall be paid into the tax maintenance fund of the county as required by section 52.312 and three-sevenths of the fees collected pursuant to the provisions of this section shall be paid into the county employees' retirement fund created by sections 50.1000 to 50.1200, RSMo. **Notwithstanding provisions of law to the contrary, an authorization for collection of a fee for the collection of delinquent and back taxes in a county's charter, at a rate different than the rate allowed by law, shall control.**

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.

13           2. In all counties having a charter form of government, **other than any county adopting**  
14 **a charter form of government after January 1, 2008**, and any city not within a county, the  
15 collector shall collect on behalf of the county and pay into the county general fund a fee for the  
16 collection of delinquent and back taxes of two percent on all sums collected to be added to the  
17 face of the tax bill and collected from the party paying the tax except that in a county with a  
18 charter form of government and with more than two hundred fifty thousand but less than seven  
19 hundred thousand inhabitants, the collector shall collect on behalf of the county a fee for the  
20 collection of delinquent and back taxes of three percent on all sums collected to be added to the  
21 face of the tax bill and collected from the party paying the tax. If a county is required by section  
22 52.312 to establish a tax maintenance fund, one-third of the fees collected under this subsection  
23 shall be paid into that fund; otherwise, all fees collected under the provisions of this subsection  
24 shall be paid into the county general fund.

25           3. Such county collector may accept credit cards as proper form of payment of  
26 outstanding delinquent and back taxes due. No county collector may charge a surcharge for  
27 payment by credit card.

52.312. Notwithstanding any provisions of law to the contrary, in addition to fees  
2 provided for in this chapter, or any other provisions of law in conflict with the provisions of this  
3 section, all counties, including any county **adopting a charter form of government after**  
4 **January 1, 2008, and any county** with a charter form of government and with more than two  
5 hundred fifty thousand but less than seven hundred thousand inhabitants, other than counties  
6 having a charter form of government **before January 1, 2008**, and any city not within a county,  
7 subject to the provisions of this section, shall establish a fund to be known as the "Tax  
8 Maintenance Fund" to be used solely as a depository for funds received or collected for the  
9 purpose of funding additional costs and expenses incurred in the office of collector.

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

52.370. All money disbursed by the county collector in counties of the first class not  
2 having a charter form of government and in counties of the second class by virtue of [his] **the**  
3 **collector's** office shall be paid by **electronic transfer of funds from the collector's account**  
4 **into the accounts of the appropriate taxing authorities or by check** signed by the collector

5 and countersigned by the auditor of the county. **All disbursements shall be documented by**  
6 **the collector and certified by the auditor.**

54.010. 1. There is created in all the counties of this state the office of county treasurer,  
2 except that in those counties having adopted the township alternative form of county government  
3 the qualified electors shall elect a county collector-treasurer.

4 2. In counties of classes one and two the qualified electors shall elect a county treasurer  
5 at the general election in 1956 and every four years thereafter.

6 3. In counties of the third and fourth classifications the qualified electors shall elect a  
7 county treasurer at the general election in the year 1954, and every four years thereafter, except  
8 that in those counties having adopted the township alternative form of county government the  
9 qualified electors shall elect a county collector-treasurer at the November election in 1956, and  
10 every four years thereafter.

11 4. Laws generally applicable to county collectors, their offices, clerks, and deputies shall  
12 apply to and govern county collector-treasurers in counties having township organization, except  
13 when such general laws and such laws applicable to counties of the third and fourth classification  
14 conflict with the laws specifically applicable to county collector-treasurers, their offices, clerks,  
15 and deputies in counties having township organization, in which case, such laws shall govern.

16 **5. In the event a county of the third or fourth classification abolishes its township**  
17 **form of government under chapter 65, or a county collector shall become a collector-**  
18 **treasurer, the county collector-treasurer shall assume all duties, compensation, fee**  
19 **schedules, and requirements of the collector-treasurer provided under sections 54.280 and**  
20 **54.320.**

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 all**  
3 **records, collections, and settlements for** all licenses issued by the county and shall [keep a  
4 record of the number, date of issue,] **receive a monthly listing from each office issuing the**  
5 **licenses stating** the name of the party or parties to whom issued[, the occupation, the expiration  
6 thereof, and amount of money paid therefor, and to 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] **provide,**  
3 **electronically or otherwise,** a daily report to the auditor of receipts [and balance in his hands,  
4 and where deposited], and shall deliver to the auditor each day a deposit slip showing the day's  
5 deposit. The collector shall, upon receiving taxes, give [duplicate] **a** numbered tax [receipts,  
6 which] **receipt to** the taxpayer [shall take to the auditor to be countersigned by him, one of which  
7 the auditor shall retain, and charge the amount thereof to the collector]. The collector shall also  
8 [make] **provide, electronically or otherwise,** a daily report to the auditor of all other sums of

9 money collected by [him] **the collector** from any source whatsoever, and in such report shall  
10 state [from whom collected, and] on what account[, which sums shall be charged by the auditor  
11 to the collector] **collected**. The collector shall[, upon turning] **turn** money over to the county  
12 treasurer[, take duplicate receipts therefor and file same immediately with the county auditor]  
13 **under section 139.210**.

139.031. 1. Any taxpayer may protest all or any part of any current taxes assessed  
2 against the taxpayer, except taxes collected by the director of revenue of Missouri. Any such  
3 taxpayer desiring to pay any current taxes under protest **or while paying taxes based upon a**  
4 **disputed assessment** shall, at the time of paying such taxes, **make full payment of the current**  
5 **tax bill before the delinquency date and** file with the collector a written statement setting forth  
6 the grounds on which the protest is based. The statement shall include the true value in money  
7 claimed by the taxpayer if disputed. **An appeal before the state tax commission shall not be**  
8 **dismissed on the grounds that a taxpayer failed to file a written statement when paying**  
9 **taxes based upon a disputed assessment**.

10 2. [For all tax years beginning on or after January 1, 2009, any taxpayer desiring to  
11 protest any current taxes shall make full payment of the current tax bill and file with the collector  
12 a written statement setting forth the grounds on which the protest is based.

13 3.] Upon receiving payment of current taxes under protest pursuant to subsection 1 of  
14 this section or upon receiving from the state tax commission or the circuit court notice of an  
15 appeal from the state tax commission or the circuit court pursuant to section 138.430, RSMo, the  
16 collector shall disburse to the proper official all portions of taxes not protested or not disputed  
17 by the taxpayer and shall impound in a separate fund all portions of such taxes which are  
18 protested or in dispute. Every taxpayer protesting the payment of current taxes under subsection  
19 1 [or 2] of this section shall, within ninety days after filing his protest, commence an action  
20 against the collector by filing a petition for the recovery of the amount protested in the circuit  
21 court of the county in which the collector maintains his office. If any taxpayer so protesting his  
22 taxes under subsection 1 [or 2] of this section shall fail to commence an action in the circuit court  
23 for the recovery of the taxes protested within the time prescribed in this subsection, such protest  
24 shall become null and void and of no effect, and the collector shall then disburse to the proper  
25 official the taxes impounded, and any interest earned thereon, as provided above in this  
26 subsection.

27 [4.] 3. No action against the collector shall be commenced by any taxpayer who has,  
28 effective for the current tax year, filed with the state tax commission or the circuit court a timely  
29 and proper appeal of the assessment of the taxpayer's property. The portion of taxes in dispute  
30 from an appeal of an assessment shall be impounded in a separate fund and the commission in  
31 its decision and order issued pursuant to chapter 138, RSMo, or the circuit court in its judgment

32 may order all or any part of such taxes refunded to the taxpayer, or may authorize the collector  
33 to release and disburse all or any part of such taxes.

34 [5.] 4. Trial of the action for recovery of taxes protested under subsection 1 [or 2] of this  
35 section in the circuit court shall be in the manner prescribed for nonjury civil proceedings, and,  
36 after determination of the issues, the court shall make such orders as may be just and equitable  
37 to refund to the taxpayer all or any part of the current taxes paid under protest, together with any  
38 interest earned thereon, or to authorize the collector to release and disburse all or any part of the  
39 impounded taxes, and any interest earned thereon, to the appropriate officials of the taxing  
40 authorities. Either party to the proceedings may appeal the determination of the circuit court.

41 [6.] 5. All the county collectors of taxes, and the collector of taxes in any city not within  
42 a county, shall, upon written application of a taxpayer, refund or credit against the taxpayer's tax  
43 liability in the following taxable year and subsequent consecutive taxable years until the taxpayer  
44 has received credit in full for any real or personal property tax mistakenly or erroneously levied  
45 against the taxpayer and collected in whole or in part by the collector. Such application shall be  
46 filed within three years after the tax is mistakenly or erroneously paid. The governing body, or  
47 other appropriate body or official of the county or city not within a county, shall make available  
48 to the collector funds necessary to make refunds under this subsection by issuing warrants upon  
49 the fund to which the mistaken or erroneous payment has been credited, or otherwise.

50 [7.] 6. No taxpayer shall receive any interest on any money paid in by the taxpayer  
51 erroneously.

52 [8.] 7. All protested taxes impounded under protest under subsection 1 [or 2] of this  
53 section and all disputed taxes impounded under notice as required by section 138.430, RSMo,  
54 shall be invested by the collector in the same manner as assets specified in section 30.260,  
55 RSMo, for investment of state moneys. A taxpayer who is entitled to a refund of protested or  
56 disputed taxes shall also receive the interest earned on the investment thereof. If the collector  
57 is ordered to release and disburse all or part of the taxes paid under protest or dispute to the  
58 proper official, such taxes shall be disbursed along with the proportional amount of interest  
59 earned on the investment of the taxes due the particular taxing authority.

60 [9.] 8. **Any taxing authority may request to be notified by the county collector of**  
61 **current taxes paid under protest. Such request shall be in writing and submitted** on or  
62 before [March] **February** first next following the delinquent date of **current** taxes paid under  
63 protest or disputed, **and** the county collector shall [notify any] **provide such information on or**  
64 **before March first of the same year to the requesting** taxing authority of the taxes paid under  
65 protest and disputed taxes which would be received by such taxing authority if the funds were  
66 not the subject of a protest or dispute. Any taxing authority may apply to the circuit court of the  
67 county or city not within a county in which a collector has impounded protested or disputed taxes

68 under this section and, upon a satisfactory showing that such taxing authority would receive such  
69 impounded tax funds if they were not the subject of a protest or dispute and that such taxing  
70 authority has the financial ability and legal capacity to repay such impounded tax funds in the  
71 event a decision ordering a refund to the taxpayer is subsequently made, the circuit court shall  
72 order, pendente lite, the disbursement of all or any part of such impounded tax funds to such taxing  
73 authority. The circuit court issuing an order under this subsection shall retain jurisdiction of such  
74 matter for further proceedings, if any, to compel restitution of such tax funds to the taxpayer.  
75 In the event that any protested or disputed tax funds refunded to a taxpayer were disbursed to a  
76 taxing authority under this subsection instead of being held and invested by the collector under  
77 subsection 8 of this section, such taxing authority shall pay the taxpayer entitled to the refund  
78 of such protested or disputed taxes the same amount of interest, as determined by the circuit  
79 court having jurisdiction in the matter, such protested or disputed taxes would have earned if  
80 they had been held and invested by the collector.

81 [10.] 9. No appeal filed from the circuit court's or state tax commission's determination  
82 pertaining to the amount of refund shall stay any order of refund, but the decision filed by any  
83 court of last review modifying that determination shall be binding on the parties, and the decision  
84 rendered shall be complied with by the party affected by any modification within ninety days of  
85 the date of such decision. No taxpayer shall receive any interest on any additional award of  
86 refund, and the collector shall not receive any interest on any ordered return of refund in whole  
87 or in part.

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

4 month, file with the county clerk a detailed statement, verified by affidavit of all state, county,  
5 school, 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 duplicate receipts therefor, one of which  
4 shall be filed in the office of the clerk of the county commission, who shall grant [him] **the**  
5 **collector** full quietus under the seal of the commission.

140.050. 1. **Except as provided in section 52.361**, the county clerk shall file the  
2 delinquent lists in [his] **the county clerk's** office and within ten days thereafter make, under the  
3 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**, when completed, the clerk shall deliver the  
5 book to the collector taking duplicate receipts therefor, one of which [he] **the clerk** shall file in  
6 [his] **the clerk's** office and the other [he] **the clerk** shall file with the director of revenue. The  
7 clerk shall charge the collector with the aggregate amount of taxes, interest, and clerk's fees  
8 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 or incorporated town, which return delinquent tax lists to the county collector to collect, appearing due upon delinquent real estates shall be extended in the back tax book made under this chapter **or chapter 52**. In case the collector of any city or town has omitted or neglected to return to the county collector a list of delinquent lands and lots, as required by section 140.670, the present authorities of the city or town may cause the delinquent list to be certified, as by that section contemplated, and the delinquent taxes shall be by the county clerk 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**, the county clerk and the county collector shall compare the back tax book with the corrected delinquent land list made pursuant to sections 140.030 and 140.040 respectively, and the clerk shall certify on the delinquent land list on file in [his] **the clerk's** office that the list has been properly entered in the back tax book and shall attach a certificate at the end of the back tax book that it contains a true copy of the 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 to this chapter or unpaid special assessments as provided in section 67.469, RSMo, relating to the collection of delinquent and back taxes and unpaid special assessments and providing for foreclosure sale and redemption of land and lots therefor, shall be valid unless initial proceedings therefor shall be commenced within three years after delinquency of such taxes and unpaid special assessments, and any sale held pursuant to initial proceedings commenced within such period of three years shall be deemed to have been in compliance with the provisions of said law insofar as the time at which such sales are to be had is specified therein; provided further, that in suits or actions to collect delinquent drainage and/or levee assessments on real estate such suits or actions shall be commenced within three years after delinquency, otherwise no suit or action therefor shall be commenced, had or maintained, except that the three-year limitation described in this subsection shall not be applicable if any written instrument conveys any real estate having a tax-exempt status, if such instrument causes such real estate to again become taxable real property and if such instrument has not been recorded in the office of the recorder in the county in which the real estate has been situated. Such three-year limitation shall only be applicable once the recording of the title has occurred.

2. [In order to enable county and city collectors to be able to collect delinquent and back taxes and unpaid special assessments,] The county auditor in all counties having a county auditor shall annually audit [and list all delinquent and back taxes and unpaid special assessments] **collections, deposits, and supporting reports of the collector** and provide a copy of such audit [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.

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  
7 collector-treasurer shall file in his or her settlement with the county commission.

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

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