

SECOND REGULAR SESSION
HOUSE COMMITTEE SUBSTITUTE FOR
SENATE BILL NO. 816
95TH GENERAL ASSEMBLY

4581L.05C

D. ADAM CRUMBLISS, Chief Clerk

AN ACT

To repeal sections 32.069, 94.510, 94.550, 94.577, and 143.811, RSMo, and to enact in lieu thereof five new sections relating to taxation, with an emergency clause for certain sections.

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

Section A. Sections 32.069, 94.510, 94.550, 94.577, and 143.811, RSMo, are repealed
2 and five new sections enacted in lieu thereof, to be known as sections 32.069, 94.510, 94.550,
3 94.577, and 143.811, to read as follows:

32.069. Notwithstanding any other provision of law to the contrary, interest shall be
2 allowed and paid on any refund or overpayment at the rate determined by section 32.068 only
3 if the overpayment is not refunded within one hundred twenty days, **or within ninety days in**
4 **the case of taxes imposed by sections 143.011 and 143.041**, from the latest of the following
5 dates:

6 (1) The last day prescribed for filing a tax return or refund claim, without regard to any
7 extension of time granted;

8 (2) The date the return, payment, or claim is filed; or

9 (3) The date the taxpayer files for a credit or refund and provides accurate and complete
10 documentation to support such claim.

94.510. 1. Any city may, by a majority vote of its council or governing body, impose
2 a city sales tax for the benefit of such city in accordance with the provisions of sections 94.500
3 to 94.550; provided, however, that no ordinance enacted pursuant to the authority granted by the
4 provisions of sections 94.500 to 94.550 shall be effective unless the legislative body of the city
5 submits to the voters of the city, at a public election, a proposal to authorize the legislative body
6 of the city to impose a tax under the provisions of sections 94.500 to 94.550.

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.

7 The ballot of submission shall be in substantially the following form:

8 Shall the city of (insert name of city) impose a city sales tax of
9 (insert rate of percent) percent?

10 ☐ YES

☐ NO

11

12 If a majority of the votes cast on the proposal by the qualified voters voting thereon are in favor
13 of the proposal, then the ordinance and any amendments thereto shall be in effect. If a majority
14 of the votes cast by the qualified voters voting are opposed to the proposal, then the legislative
15 body of the city shall have no power to impose the **proposed** tax herein authorized unless and
16 until the legislative body of the city shall again have submitted another proposal to authorize the
17 legislative body of the city to impose the tax under the provisions of sections 94.500 to 94.550,
18 and such proposal is approved by a majority of the qualified voters voting thereon. **Disapproval**
19 **of a proposal by the qualified voters shall not affect any tax already in effect.**

20 2. [The] A sales tax may be imposed at a rate of one-half of one percent, seven-eighths
21 of one percent or one percent on the receipts from the sale at retail of all tangible personal
22 property or taxable services at retail within any city adopting such tax, if such property and
23 services are subject to taxation by the state of Missouri under the provisions of sections 144.010
24 to 144.525, RSMo; except that, each city not within a county may **also** impose such tax at a rate
25 not to exceed one and three-eighths percent. **Beginning August 28, 2010, the combined rate**
26 **of sales taxes adopted under sections 94.500 to 94.550 shall not exceed two percent.**

27 3. If any city in which a city tax has been imposed in the manner provided for in sections
28 94.500 to 94.550 shall thereafter change or alter its boundaries, the city clerk of the city shall
29 forward to the director of revenue by United States registered mail or certified mail a certified
30 copy of the ordinance adding or detaching territory from the city. The ordinance shall reflect the
31 effective date thereof, and shall be accompanied by a map of the city clearly showing the territory
32 added thereto or detached therefrom. Upon receipt of the ordinance and map, the [tax imposed
33 by the act] **taxes** shall be effective in the added territory or abolished in the detached territory on
34 the effective date of the change of the city boundary.

35 **4. The changes to this section enacted by the ninety-fifth general assembly, second**
36 **regular session, shall not be construed to be a new tax or an increase in the current levy of**
37 **an existing tax for purposes of paragraph (a) of section 22, article X, Constitution of**
38 **Missouri, and cities that have already imposed and collected taxes under this section may**
39 **continue to collect such taxes under this section without further approval by the voters as**
40 **a continuation of a tax previously approved by the voters of such city.**

94.550. 1. All city sales taxes collected by the director of revenue under sections 94.500
2 to 94.550 on behalf of any city, less one percent for cost of collection which shall be deposited

3 in the state's general revenue fund after payment of premiums for surety bonds as provided in
4 section 32.087, RSMo, shall be deposited [with the state treasurer] in a special trust fund, which
5 is hereby created, to be known as the "City Sales Tax Trust Fund". The moneys in the city sales
6 tax trust fund shall not be deemed to be state funds and shall not be commingled with any funds
7 of the state. The director of revenue shall keep accurate records of the amount of money in the
8 trust fund which was collected in each city imposing a city sales tax, and the records shall be
9 open to the inspection of officers of the city and the public. Not later than the tenth day of each
10 month the director of revenue shall distribute all moneys deposited in the trust fund during the
11 preceding month, to the city treasurer, or such other officer as may be designated by the city
12 ordinance, of each city imposing the tax authorized by sections 94.500 to 94.550, the sum due
13 the city as certified by the director of revenue.

14 2. The director of revenue may [authorize the state treasurer to] make refunds from the
15 amounts in the trust fund and credited to any city for erroneous payments and overpayments
16 made, and may redeem dishonored checks and drafts deposited to the credit of such cities. If any
17 city abolishes [the] a tax, the city shall notify the director of revenue of the action at least ninety
18 days prior to the effective date of the repeal and the director of revenue may order retention in
19 the trust fund, for a period of one year, of two percent of the amount collected after receipt of
20 such notice to cover possible refunds or overpayment of the tax and to redeem dishonored checks
21 and drafts deposited to the credit of such accounts. After one year has elapsed after the effective
22 date of abolition of [the tax] **all such taxes** in such city, the director of revenue shall [authorize
23 the state treasurer to] remit the balance in the account to the city and close the account of that
24 city. The director of revenue shall notify each city of each instance of any amount refunded or
25 any check redeemed from receipts.

26 **3. The changes to this section enacted by the ninety-fifth general assembly, second**
27 **regular session, shall not be construed to be a new tax or an increase in the current levy of**
28 **an existing tax for purposes of paragraph (a) of section 22, article X, Constitution of**
29 **Missouri, and cities that have already imposed and collected taxes under this section may**
30 **continue to collect such taxes under this section without further approval by the voters as**
31 **a continuation of a tax previously approved by the voters of such city.**

94.577. 1. The governing body of any municipality except those located in whole or in
2 part within any first class county having a charter form of government and not containing any
3 part of a city with a population of four hundred thousand or more and adjacent to a city not
4 within a county for that part of the municipality located within such first class county is hereby
5 authorized to impose, by ordinance or order, a one-eighth, one-fourth, three-eighths, or one-half
6 of one percent sales tax on all retail sales made in such municipality which are subject to taxation
7 under the provisions of sections 144.010 to 144.525, RSMo, for the purpose of funding capital

8 improvements, including the operation and maintenance of capital improvements, which may
9 be funded by issuing bonds which will be retired by the revenues received from the sales tax
10 authorized by this section or the retirement of debt under previously authorized bonded
11 indebtedness. A municipality located in a charter county may impose a sales tax on all retail
12 sales for capital improvements as provided in section 94.890. The [tax] **taxes** authorized by this
13 section shall be in addition to any and all other sales taxes allowed by law; but no ordinance
14 imposing a sales tax under the provisions of this section shall be effective unless the governing
15 body of the municipality submits to the voters of the municipality, at a municipal or state general,
16 primary or special election, a proposal to authorize the governing body of the municipality to
17 impose such tax and, if such tax is to be used to retire bonds authorized under this section, to
18 authorize such bonds and their retirement by such tax, or to authorize the retirement of debt
19 under previously authorized bonded indebtedness. **Beginning August 28, 2010, the combined**
20 **rate of sales taxes adopted under this section by a municipality shall not exceed one**
21 **percent.**

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

23 (1) If the proposal submitted involves only authorization to impose the tax authorized
24 by this section, the following language:

25 Shall the municipality of (municipality's name) impose a sales tax of (insert
26 amount) for the purpose of funding capital improvements which may include the retirement of
27 debt under previously authorized bonded indebtedness?

28 ☐ YES

☐ NO

29
30 If you are in favor of the question, place an "X" in the box opposite "YES". If you are opposed
31 to the question, place an "X" in the box opposite "NO"; or

32 (2) If the proposal submitted involves authorization to issue bonds and repay such bonds
33 with revenues from the tax authorized by this section, the following language:

34 Shall the municipality of (municipality's name) issue bonds in the amount
35 of (insert amount) to fund capital improvements and impose a sales tax of (insert
36 amount) to repay bonds?

37
38 ☐ YES

☐ NO

39
40 If you are in favor of the question, place an "X" in the box opposite "YES". If you are opposed
41 to the question, place an "X" in box opposite "NO".

42

43 If a majority of the votes cast on the proposal by the qualified voters voting thereon are in favor
44 of the proposal, including when the proposal authorizes the reduction of debt under previously
45 authorized bonded indebtedness under subdivision (1) of this subsection, then the ordinance or
46 order and any amendments thereto shall be in effect, except that any proposal submitted under
47 subdivision (2) of this subsection to issue bonds and impose a sales tax to retire such bonds must
48 be approved by the constitutionally required percentage of the voters voting thereon to become
49 effective. If a majority of the votes cast by the qualified voters voting are opposed to the
50 proposal, then the governing body of the municipality shall have no power to issue any bonds
51 or impose the **proposed** sales tax authorized in this section unless and until the governing body
52 of the municipality shall again have submitted another proposal to authorize the governing body
53 of the municipality to issue any bonds or impose [the] **a** sales tax authorized by this section, and
54 such proposal is approved by the requisite majority of the qualified voters voting thereon;
55 however, in no event shall a proposal pursuant to this section be submitted to the voters sooner
56 than twelve months from the date of the last proposal pursuant to this section, except that any
57 municipality with a population of greater than four hundred thousand and located within more
58 than one county may submit a proposal pursuant to this section to the voters sooner than twelve
59 months from the date of the last proposal submitted pursuant to this section if submitted to the
60 voters on or before November 6, 2001. **Disapproval of a proposal by the qualified voters**
61 **shall not affect any tax already in effect.**

62 3. All revenue received by a municipality from the [tax] **taxes** authorized under the
63 provisions of this section shall be deposited in a special trust fund and shall be used solely for
64 capital improvements, including the operation and maintenance of capital improvements, for so
65 long as the [tax] **taxes** shall remain in effect. Once the [tax] **taxes** authorized by this section [is]
66 **are** abolished or [is] terminated by any means, all funds remaining in the special trust fund
67 required by this subsection shall be used solely for the maintenance of the capital improvements
68 made with revenues raised by the [tax] **taxes** authorized by this section. Any funds in the special
69 trust fund required by this subsection which are not needed for current expenditures may be
70 invested by the governing body in accordance with applicable laws relating to the investment of
71 other municipal funds. The provisions of this subsection shall apply only to taxes authorized by
72 this section which have not been imposed to retire bonds issued pursuant to this section.

73 4. All revenue received by a municipality which issues bonds under this section and
74 imposes the [tax] **taxes** authorized by this section to retire such bonds shall be deposited in a
75 special trust fund and shall be used solely to retire such bonds, except to the extent that such
76 funds are required for the operation and maintenance of capital improvements. Once all of such
77 bonds have been retired, all funds remaining in the special trust fund required by this subsection
78 shall be used solely for the maintenance of the capital improvements made with the revenue

79 received as a result of the issuance of such bonds. Any funds in the special trust fund required
80 by this subsection which are not needed to meet current obligations under the bonds issued under
81 this section may be invested by the governing body in accordance with applicable laws relating
82 to the investment of other municipal funds. The provisions of this subsection shall apply only
83 to taxes authorized by this section which have been imposed to retire bonds issued under this
84 section.

85 5. After the effective date of any tax imposed under the provisions of this section, the
86 director of revenue shall perform all functions incident to the administration, collection,
87 enforcement, and operation of the tax in the same manner as provided in sections 94.500 to
88 94.550, and the director of revenue shall collect in addition to the sales tax for the state of
89 Missouri the additional [tax] **taxes** authorized under the authority of this section. The tax
90 imposed pursuant to this section and the tax imposed under the sales tax law of the state of
91 Missouri shall be collected together and reported upon such forms and under such administrative
92 rules and regulations as may be prescribed by the director of revenue. Except as modified in this
93 section, all provisions of sections 32.085 and 32.087, RSMo, shall apply to the [tax] **taxes**
94 imposed under this section.

95 6. No tax imposed pursuant to this section for the purpose of retiring bonds issued under
96 this section may be terminated until all of such bonds have been retired.

97 7. In any city not within a county, no tax shall be imposed pursuant to this section for
98 the purpose of funding in whole or in part the construction, operation or maintenance of a sports
99 stadium, field house, indoor or outdoor recreational facility, center, playing field, parking facility
100 or anything incidental or necessary to a complex suitable for any type of professional sport or
101 recreation, either upon, above or below the ground.

102 8. Any tax imposed under this section in any home rule city with more than four hundred
103 thousand inhabitants and located in more than one county solely for public transit purposes shall
104 not be considered economic activity taxes as such term is defined under sections 99.805 and
105 99.918, RSMo, and tax revenues derived from such tax shall not be subject to allocation under
106 the provisions of subsection 3 of section 99.845, RSMo, or subsection 4 of section 99.957,
107 RSMo.

108 9. The director of revenue may [authorize the state treasurer to] make refunds from the
109 amounts in the trust fund and credited to any municipality for erroneous payments and
110 overpayments made, and may redeem dishonored checks and drafts deposited to the credit of
111 such municipalities. If any municipality abolishes [the] a tax, the municipality shall notify the
112 director of revenue of the action at least ninety days prior to the effective date of the repeal and
113 the director of revenue may order retention in the trust fund, for a period of one year, of two
114 percent of the amount collected after receipt of such notice to cover possible refunds or

115 overpayment of the tax and to redeem dishonored checks and drafts deposited to the credit of
116 such accounts. After one year has elapsed after the effective date of abolition of [the tax] **all**
117 **such taxes** in such municipality, the director of revenue shall remit the balance in the account
118 to the municipality and close the account of that municipality. The director of revenue shall
119 notify each municipality of each instance of any amount refunded or any check redeemed from
120 receipts due the municipality.

121 **10. If any municipality in which a tax has been imposed under this section changes**
122 **or alters its boundaries after the tax is imposed, the clerk of the municipality shall forward**
123 **to the director of revenue by United States registered mail or certified mail a certified copy**
124 **of the ordinance adding or detaching territory from the municipality. The ordinance shall**
125 **reflect its effective date, and shall be accompanied by a map of the municipality clearly**
126 **showing the territory added to or detached from the municipality. Upon receipt of the**
127 **ordinance and map, the taxes shall be effective in the attached territory, or abolished in the**
128 **detached territory, on the effective date of the change of the municipal boundary.**

129 **11. The changes to this section enacted by the ninety-fifth general assembly, second**
130 **regular session, shall not be construed to be a new tax or an increase in the current levy of**
131 **an existing tax for purposes of paragraph (a) of section 22, article X, Constitution of**
132 **Missouri, and cities that have already imposed and collected taxes under this section may**
133 **continue to collect such taxes under this section without further approval by the voters as**
134 **a continuation of a tax previously approved by the voters of such city.**

143.811. 1. Under regulations prescribed by the director of revenue, interest shall be
2 allowed and paid at the rate determined by section 32.065, RSMo, on any overpayment in respect
3 of the tax imposed by sections 143.011 to 143.996; except that, where the overpayment resulted
4 from the filing of an amendment of the tax by the taxpayer after the last day prescribed for the
5 filing of the return, interest shall be allowed and paid at the rate of six percent per annum. With
6 respect to the part of an overpayment attributable to a deposit made pursuant to subsection 2 of
7 section 143.631, interest shall be paid thereon at the rate in section 32.065, RSMo, from the date
8 of the deposit to the date of refund. No interest shall be allowed or paid if the amount thereof
9 is less than one dollar.

10 2. For purposes of this section:

11 (1) Any return filed before the last day prescribed for the filing thereof shall be
12 considered as filed on such last day determined without regard to any extension of time granted
13 the taxpayer;

14 (2) Any tax paid by the taxpayer before the last day prescribed for its payment, any
15 income tax withheld from the taxpayer during any calendar year, and any amount paid by the
16 taxpayer as estimated income tax for a taxable year shall be deemed to have been paid by him

17 on the fifteenth day of the fourth month following the close of his taxable year to which such
18 amount constitutes a credit or payment.

19 3. For purposes of this section with respect to any withholding tax:

20 (1) If a return for any period ending with or within a calendar year is filed before April
21 fifteenth of the succeeding calendar year, such return shall be considered filed April fifteenth of
22 such succeeding calendar year; and

23 (2) If a tax with respect to remuneration paid during any period ending with or within
24 a calendar year is paid before April fifteenth of the succeeding calendar year, such tax shall be
25 considered paid on April fifteenth of such succeeding calendar year.

26 4. If any overpayment of tax imposed by sections [143.011 to 143.996] **143.061 and**
27 **143.071** is refunded within four months after the last date prescribed (or permitted by extension
28 of time) for filing the return of such tax or within four months after the return was filed,
29 whichever is later, no interest shall be allowed under this section on overpayment.

30 **5. If any overpayment of tax imposed by sections 143.011 and 143.041 is refunded**
31 **within ninety days after the last date prescribed, or permitted by extension of time, for**
32 **filing the return of such tax or within ninety days after the return was filed, whichever is**
33 **later, no interest shall be allowed under this section on overpayment.**

34 6. Any overpayment resulting from a carryback, including a net operating loss and a
35 corporate capital loss, shall be deemed not to have been made prior to the close of the taxable
36 year in which the loss arises.

37 [6.] 7. Any overpayment resulting from a carryback of a tax credit, including but not
38 limited to the tax credits provided in sections 253.557 and 348.432, RSMo, shall be deemed not
39 to have been made prior to the close of the taxable year in which the tax credit was authorized.
40 In fiscal year 2003, the commissioner of administration shall estimate the amount of any
41 additional state revenue received pursuant to the provisions of this subsection and shall transfer
42 an equivalent amount of general revenue to the schools of the future fund created in section
43 163.005, RSMo.

Section B. Because immediate action is necessary to ensure taxpayers receive refunds
2 in a timely manner, the repeal and reenactment of sections 32.069 and 143.811 of section A of
3 this act is deemed necessary for the immediate preservation of the public health, welfare, peace,
4 and safety, and is hereby declared to be an emergency act within the meaning of the constitution,
5 and the repeal and reenactment of sections 32.069 and 143.811 of section A of this act shall be
6 in full force and effect upon its passage and approval.

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