

SECOND REGULAR SESSION

# HOUSE BILL NO. 1612

## 102ND GENERAL ASSEMBLY

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INTRODUCED BY REPRESENTATIVE VAN SCHOIACK.

3778H.011

DANA RADEMAN MILLER, Chief Clerk

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### AN ACT

To repeal sections 221.400, 221.402, 221.405, 221.407, and 221.410, RSMo, and to enact in lieu thereof five new sections relating to regional jail districts, with an emergency clause.

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

Section A. Sections 221.400, 221.402, 221.405, 221.407, and 221.410, RSMo, are  
2 repealed and five new sections enacted in lieu thereof, to be known as sections 221.400,  
3 221.402, 221.405, 221.407, and 221.410, to read as follows:

221.400. 1. Any two or more contiguous counties within the state may form an  
2 agreement to establish a regional jail district. The district shall have a boundary which  
3 includes the areas within each member county, and it shall be named the "\_\_\_\_\_ Regional  
4 Jail District". Such regional jail districts may contract to carry out the mission of the  
5 commission and the regional jail district.

6 2. The county commission of each county desiring to join the district shall approve an  
7 ordinance or resolution to join the district and shall approve the agreement which specifies the  
8 duties of each county within the district.

9 3. If any county wishes to join a district which has already been established under this  
10 section, the agreement shall be rewritten and reapproved by each member county. **If the  
11 district already levies a sales tax under section 221.407, the joining of any county to such  
12 district shall not be effective until the voters of the county desiring to join approve the  
13 levy of the district sales tax in the joining county under subsection 3 of section 221.407.  
14 Upon such approval, the rewritten agreement shall indicate the approval of the joining  
15 county.**

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.

16 4. The agreement which specifies the duties of each county shall contain the  
17 following:

18 (1) The name of the district;

19 (2) The names of the counties within the district;

20 (3) The formula for calculating each county's contribution to the costs of the district;

21 (4) The types of prisoners which the regional jail may house, limited to prisoners  
22 which may be transferred to counties under state law;

23 (5) The methods and powers which may be used for constructing, leasing or financing  
24 a regional jail;

25 (6) The duties of the director of the regional jail;

26 (7) The timing and procedures for approval of the regional jail district's annual budget  
27 by the regional jail commission; and

28 (8) The delegation, if any, by the member counties to the regional jail district of the  
29 power of eminent domain.

30 5. Any county, city, town or village may contract with a regional jail commission for  
31 the holding of its prisoners.

221.402. In addition to the powers granted to the district by its member counties  
2 under the agreement, the district has all the powers necessary or appropriate to carry out its  
3 purposes, including, but not limited to, the following:

4 (1) To adopt bylaws and rules for the regulation of its affairs and the conduct of its  
5 business;

6 (2) To adopt an official seal;

7 (3) To maintain an office at such place or places in one or more of the member  
8 counties as the commission may designate;

9 (4) To sue and be sued;

10 (5) To make and execute leases, contracts, releases, compromises and other  
11 instruments necessary or convenient for the exercise of its powers or to carry out its purposes;

12 (6) To acquire, construct, reconstruct, repair, alter, improve, ~~and~~ **equip**, extend, **and**  
13 **maintain** jail facilities;

14 (7) To sell, assign, **lease**, mortgage, grant a security interest in, exchange, donate and  
15 convey any or all of its properties whenever the commission finds such action to be in  
16 furtherance of the district's purposes;

17 (8) To collect rentals, fees and other charges in connection with its services or for the  
18 use of any facilities;

19 (9) To issue its bonds, notes or other obligations for any of its corporate purposes and  
20 to refund the same.

221.405. 1. Any regional jail district created pursuant to section 221.400 shall be governed by a commission. The commission shall be composed of the sheriff and presiding commissioner from each county within the district.

2. Each commissioner shall serve during his tenure as sheriff or as presiding commissioner.

3. Commissioners shall serve until their successors **in their county offices** have ~~been duly appointed~~ **assumed office**. Vacancies on the commission shall be filled by the succeeding sheriff or presiding commissioner for the remainder of the term.

4. Commissioners shall serve without compensation, except that they shall be reimbursed by the district for their reasonable and necessary expenses in the performance of their duties.

5. A jail commissioner from each county in the district shall present a proposed budget to the county commission.

221.407. 1. The commission of any regional jail district may impose, by order, a sales tax ~~[in the amount] of [one-eighth of one percent, one-fourth of one percent, three-eighths of one percent, or one-half of]~~ **up to** one percent on all retail sales made in such region which are subject to taxation pursuant to the provisions of sections 144.010 to 144.525 for the purpose of providing jail services ~~[and court]~~, facilities, and equipment for such region. The tax authorized by this section shall be in addition to any and all other sales taxes allowed by law, except that no order imposing a sales tax pursuant to this section shall be effective unless the commission submits to the voters of the district, on any election date authorized in chapter 115, a proposal to authorize the commission to impose a tax.

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

Shall the \_\_\_\_\_ **(insert district name)** regional jail district ~~[of \_\_\_\_\_ (counties' names)]~~ impose a region-wide sales tax of \_\_\_\_\_ (insert amount) for the purpose of providing jail services ~~[and court]~~, facilities, and equipment for the region?

Yes  No

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

If a majority of the votes cast on the proposal by the qualified voters of the district voting thereon are in favor of the proposal, then the order and any amendment to such order shall be in effect on the first day of the second quarter immediately following the election approving the proposal. If the proposal receives less than the required majority, the commission shall

25 have no power to impose the sales tax authorized pursuant to this section unless and until the  
26 commission shall again have submitted another proposal to authorize the commission to  
27 impose the sales tax authorized by this section and such proposal is approved by the  
28 ~~[required]~~ majority of the qualified voters of the district voting on such proposal~~]; however, in~~  
29 ~~no event shall a proposal pursuant to this section be submitted to the voters sooner than~~  
30 ~~twelve months from the date of the last submission of a proposal pursuant to this section].~~

31       **3. (1) In the case of a county attempting to join an existing district that levies a**  
32 **sales tax under subsection 1 of this section, the joining county may impose, by order or**  
33 **ordinance, a district sales tax in such county. The order or ordinance shall not become**  
34 **effective unless the county commission submits to the voters residing in the county at a**  
35 **municipal election or a state general, primary, or special election a proposal to join the**  
36 **regional jail district and to authorize the county commission to impose a tax under this**  
37 **subsection. The tax authorized by this subsection shall be in addition to any and all**  
38 **other taxes. Such tax shall be stated separately from all other charges and taxes.**

39       **(2) The question submitted shall be in substantially the following form: "Shall**  
40 **the \_\_\_\_\_ (insert district name) extend its regional jail district boundaries to include \_**  
41 **\_\_\_\_\_ (insert joining county name) and impose a regional jail district sales tax at a rate of**  
42 **\_\_\_\_\_ (insert percentage) percent in \_\_\_\_\_ (insert joining county name) for the**  
43 **purpose of providing jail services, facilities, and equipment for the region?"**.

44       **(3) If a majority of the votes cast on the question by the qualified voters voting**  
45 **thereon are in favor of the question, the county shall be deemed to have joined the**  
46 **regional jail district under a rewritten agreement under subsection 3 of section 221.400**  
47 **and the tax shall become effective on the first day of the second calendar quarter**  
48 **following the calendar quarter in which the election was held. If a majority of the votes**  
49 **cast on the question by the qualified voters voting thereon are opposed to the question,**  
50 **the county shall not join the regional jail district and the tax shall not become effective**  
51 **unless and until the question is resubmitted under this section to the qualified voters of**  
52 **the county and such question is approved by a majority of the qualified voters of the**  
53 **county voting on the question.**

54       **4. All revenue received by a district from the tax authorized pursuant to this section**  
55 **shall be deposited in a special trust fund and shall be used solely for providing jail services**  
56 **~~[and court]~~, facilities, and equipment for such district for so long as the tax shall remain in**  
57 **effect.**

58       ~~[4.]~~ **5. Once the tax authorized by this section is abolished or terminated by any**  
59 **means, all funds remaining in the special trust fund shall be used solely for providing jail**  
60 **services ~~[and court]~~, facilities, and equipment for the district. Any funds in such special trust**

61 fund which are not needed for current expenditures may be invested by the commission in  
62 accordance with applicable laws relating to the investment of other county funds.

63 ~~[5-]~~ **6.** All sales taxes collected by the director of revenue pursuant to this section on  
64 behalf of any district, less one percent for cost of collection which shall be deposited in the  
65 state's general revenue fund after payment of premiums for surety bonds as provided in  
66 section 32.087, shall be deposited in a special trust fund, which is hereby created, to be  
67 known as the "Regional Jail District Sales Tax Trust Fund". The moneys in the regional jail  
68 district sales tax trust fund shall not be deemed to be state funds and shall not be commingled  
69 with any funds of the state. The director of revenue shall keep accurate records of the amount  
70 of money in the trust fund which was collected in each district imposing a sales tax pursuant  
71 to this section, and the records shall be open to the inspection of officers of each member  
72 county and the public. Not later than the tenth day of each month the director of revenue shall  
73 distribute all moneys deposited in the trust fund during the preceding month to the district  
74 which levied the tax. Such funds shall be deposited with the treasurer of each such district,  
75 and all expenditures of funds arising from the regional jail district sales tax trust fund shall be  
76 paid pursuant to an appropriation adopted by the commission and shall be approved by the  
77 commission. Expenditures may be made from the fund for any ~~[function authorized in the~~  
78 ~~order adopted by the commission submitting the regional jail district tax to the voters]~~ **of the**  
79 **district's authorized purposes.**

80 ~~[6-]~~ **7.** The director of revenue may make refunds from the amounts in the trust fund  
81 and credited to any district for erroneous payments and overpayments made, and may redeem  
82 dishonored checks and drafts deposited to the credit of such districts. If any district abolishes  
83 the tax, the commission shall notify the director of revenue of the action at least ninety days  
84 prior to the effective date of the repeal, and the director of revenue may order retention in the  
85 trust fund, for a period of one year, of two percent of the amount collected after receipt of  
86 such notice to cover possible refunds or overpayment of the tax and to redeem dishonored  
87 checks and drafts deposited to the credit of such accounts. After one year has elapsed after  
88 the effective date of abolition of the tax in such district, the director of revenue shall remit the  
89 balance in the account to the district and close the account of that district. The director of  
90 revenue shall notify each district in each instance of any amount refunded or any check  
91 redeemed from receipts due the district.

92 ~~[7-]~~ **8.** Except as provided in this section, all provisions of sections 32.085 and 32.087  
93 shall apply to the tax imposed pursuant to this section.

94 ~~[8- The provisions of this section shall expire September 30, 2028.]~~

221.410. Except as provided in sections 221.400 to 221.420 the regional jail  
2 commission shall have the following powers and duties:

3 (1) It shall implement the agreement approved by the counties within the district  
4 under section 221.400;

5 (2) It shall determine the means to establish a regional jail for the district;

6 (3) It shall appoint a director for the regional jail;

7 (4) It shall determine the initial budget for the regional jail and shall approve, after a  
8 review and a majority of the commissioners concurring therein, all subsequent budgets, for  
9 which proposals may be submitted by the director;

10 (5) It may determine the policies for the housing of prisoners within the regional jail;

11 (6) It may buy, lease, or sell real **or personal** property for the purpose of establishing  
12 **and maintaining** a regional jail, and it may contract with public or private entities ~~for the~~  
13 ~~planning and acquisition of a jail~~ **to acquire, construct, reconstruct, repair, alter, improve,**  
14 **equip, and extend a regional jail;**

15 (7) It may contract with ~~the department of corrections and with cities and other~~  
16 ~~counties in this state~~ **governmental entities including, but not limited to, departments**  
17 **and instrumentalities thereof, or private entities** for the housing of prisoners;

18 (8) It shall approve all positions to be created for the purpose of administering the  
19 regional jail; and

20 (9) It shall approve a location for the regional jail ~~which is generally central to~~ **that**  
21 **is within** the district.

Section B. Because immediate action is necessary to provide new and enhanced jail  
2 facilities in this state, section A of this act is deemed necessary for the immediate preservation  
3 of the public health, welfare, peace, and safety, and is hereby declared to be an emergency act  
4 within the meaning of the constitution, and section A of this act shall be in full force and  
5 effect upon its passage and approval.

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