

FIRST REGULAR SESSION

HOUSE BILL NO. 822

99TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE NICHOLS.

1655H.011

D. ADAM CRUMBLISS, Chief Clerk

AN ACT

To repeal sections 479.350, 479.353, 479.359, and 479.368, RSMo, and to enact in lieu thereof four new sections relating to municipal courts.

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

Section A. Sections 479.350, 479.353, 479.359, and 479.368, RSMo, are repealed and four new sections enacted in lieu thereof, to be known as sections 479.350, 479.353, 479.359, and 479.368, to read as follows:

479.350. For purposes of sections 479.350 to 479.372, the following terms mean:

(1) "Annual general operating revenue", revenue that can be used to pay any bill or obligation of a county, city, town, or village, including general sales tax; general use tax; general property tax; fees from licenses and permits; unrestricted user fees; fines, court costs, bond forfeitures, and penalties. Annual general operating revenue does not include designated sales or use taxes; restricted user fees; grant funds; funds expended by a political subdivision for technological assistance in collecting, storing, and disseminating criminal history record information and facilitating criminal identification activities for the purpose of sharing criminal justice-related information among political subdivisions; or other revenue designated for a specific purpose;

(2) "Court costs", costs, fees, or surcharges which are retained by a county, city, town, or village upon a finding of guilty or plea of guilty, and shall exclude any costs, fees, or surcharges disbursed to the state or other entities by a county, city, town, or village and any certified costs, not including fines added to the annual real estate tax bill or a special tax bill under section 67.398, 67.402, or 67.451;

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 (3) "Minor traffic violation", a municipal or county traffic ordinance violation prosecuted
 17 that does not involve an accident or injury, that does not involve the operation of a commercial
 18 motor vehicle, and for which no points are assessed by the department of revenue or the
 19 department of revenue is authorized to assess one to four points to a person's driving record upon
 20 conviction. Minor traffic violation shall include amended charges for any minor traffic violation.
 21 Minor traffic violation shall exclude a violation for exceeding the speed limit by more than
 22 nineteen miles per hour or a violation occurring within a construction zone or school zone[~~;~~

23 ~~—— (4) "Municipal ordinance violation", a municipal or county ordinance violation~~
 24 ~~prosecuted for which penalties are authorized by statute under sections 64.160, 64.200, 64.295,~~
 25 ~~64.487, 64.690, 64.895, 67.398, 71.285, 89.120, and 89.490. Municipal ordinance violation shall~~
 26 ~~include amended charges for municipal ordinance violations].~~

479.353. Notwithstanding any ~~[provisions]~~ **provision of law** to the contrary, the
 2 following conditions shall apply to minor traffic violations ~~[and municipal ordinance violations]:~~

3 (1) The court shall not assess a fine, if combined with the amount of court costs, totaling
 4 in excess of~~:-~~

5 ~~—— (a) two hundred twenty-five dollars [for minor traffic violations, and~~

6 ~~—— (b) For municipal ordinance violations committed within a twelve-month period~~
 7 ~~beginning with the first violation: two hundred dollars for the first municipal ordinance~~
 8 ~~violation, two hundred seventy-five dollars for the second municipal ordinance violation, three~~
 9 ~~hundred fifty dollars for the third municipal ordinance violation, and four hundred fifty dollars~~
 10 ~~for the fourth and any subsequent municipal ordinance violations];~~

11 (2) The court shall not sentence a person to confinement, except the court may sentence
 12 a person to confinement for any violation involving alcohol or controlled substances, violations
 13 endangering the health or welfare of others, or eluding or giving false information to a law
 14 enforcement officer;

15 (3) A person shall not be placed in confinement for failure to pay a fine unless such
 16 nonpayment violates terms of probation or unless the due process procedures mandated by
 17 Missouri supreme court rule 37.65 or its successor rule are strictly followed by the court;

18 (4) Court costs that apply shall be assessed against the defendant unless the court finds
 19 that the defendant is indigent based on standards set forth in determining such by the presiding
 20 judge of the circuit. Such standards shall reflect model rules and requirements to be developed
 21 by the supreme court; and

22 (5) No court costs shall be assessed if the defendant is found to be indigent under
 23 subdivision (4) of this section or if the case is dismissed.

479.359. 1. Every county, city, town, and village shall annually calculate the percentage
 2 of its annual general operating revenue received from fines, bond forfeitures, and court costs for

3 ~~[municipal ordinance violations and]~~ minor traffic violations, including amended charges for any
4 ~~[municipal ordinance violations and]~~ minor traffic violations, whether the violation was
5 prosecuted in municipal court, associate circuit court, or circuit court, occurring within the
6 county, city, town, or village. If the percentage is more than thirty percent, the excess amount
7 shall be sent to the director of the department of revenue. The director of the department of
8 revenue shall set forth by rule a procedure whereby excess revenues as set forth in this section
9 shall be sent to the department of revenue. The department of revenue shall distribute these
10 moneys annually to the schools of the county in the same manner that proceeds of all fines
11 collected for any breach of the penal laws of this state are distributed.

12 2. Beginning January 1, 2016, the percentage specified in subsection 1 of this section
13 shall be reduced from thirty percent to twenty percent, unless any county, city, town, or village
14 has a fiscal year beginning on any date other than January first, in which case the reduction shall
15 begin on the first day of the immediately following fiscal year except that any county with a
16 charter form of government and with more than nine hundred fifty thousand inhabitants and any
17 city, town, or village with boundaries found within such county shall be reduced from thirty
18 percent to twelve and one-half percent.

19 3. An addendum to the annual financial report submitted to the state auditor under
20 section 105.145 by the county, city, town, or village that has chosen to have a municipal court
21 division shall contain an accounting of:

22 (1) Annual general operating revenue ~~[as defined in section 479.350]~~;

23 (2) The total revenues from fines, bond forfeitures, and court costs for ~~[municipal~~
24 ~~ordinance violations and]~~ minor traffic violations occurring within the county, city, town, or
25 village, including amended charges from any ~~[municipal ordinance violations and]~~ minor traffic
26 violations;

27 (3) The percent of annual general operating revenue from fines, bond forfeitures, and
28 court costs for ~~[municipal ordinance violations and]~~ minor traffic violations occurring within the
29 county, city, town, or village, including amended charges from any charged ~~[municipal ordinance~~
30 ~~violations and]~~ minor traffic violation, charged in the municipal court of that county, city, town,
31 or village; and

32 (4) Said addendum shall be certified and signed by a representative with knowledge of
33 the subject matter as to the accuracy of the addendum contents, under oath and under the penalty
34 of perjury, and witnessed by a notary public.

35 4. On or before December 31, 2015, the state auditor shall set forth by rule a procedure
36 for including the addendum information required by this section. The rule shall also allow
37 reasonable opportunity for demonstration of compliance without undue burdensome
38 calculations.

479.368. 1. (1) Except for county sales taxes deposited in the county sales tax trust fund as defined in section 66.620, any county, city, town, or village failing to timely file the required addendums or remit the required excess revenues, if applicable, after the time period provided by the notice by the director of the department of revenue or any final determination on excess revenue by the court in a judicial proceeding, whichever is later, shall not receive from that date any amount of moneys to which the county, city, town, or village would otherwise be entitled to receive from revenues from local sales tax as defined in section 32.085.

(2) If any county, city, town, or village has failed to timely file the required addendums, the director of the department of revenue shall hold any moneys the noncompliant city, town, village, or county would otherwise be entitled to from local sales tax as defined in section 32.085 until a determination is made by the director of revenue that the noncompliant city, town, village, or county has come into compliance with the provisions of sections 479.359 and 479.360.

(3) If any county, city, town, or village has failed to remit the required excess revenue to the director of the department of revenue such general local sales tax revenues shall be distributed as provided in subsection 1 of section 479.359 by the director of the department of revenue in the amount of excess revenues that the county, city, town, or village failed to remit.

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Upon a noncompliant city, town, village, or county coming into compliance with the provisions of sections 479.359 and 479.360, the director of the department of revenue shall disburse any remaining balance of funds held under this subsection after satisfaction of amounts due under section 479.359. Moneys held by the director of the department of revenue under this subsection shall not be deemed to be state funds and shall not be commingled with any funds of the state.

2. (1) Any city, town, village, or county that participates in the distribution of local sales tax in sections 66.600 to 66.630 and fails to timely file the required addendums or remit the required excess revenues, if applicable, after the time period provided by the notice by the director of the department of revenue or any final determination on excess revenue by the court in a judicial proceeding, whichever is later, shall not receive any amount of moneys to which said city, town, village, or county would otherwise be entitled under sections 66.600 to 66.630. The director of the department of revenue shall notify the county to which the duties of the director have been delegated under section 66.601 of any noncompliant city, town, village, or county and the county shall remit to the director of the department of revenue any moneys to which said city, town, village, or county would otherwise be entitled. No disbursements to the noncompliant city, town, village, or county shall be permitted until a determination is made by the director of revenue that the noncompliant city, town, village, or county has come into compliance with the provisions of sections 479.359 and 479.360.

36 (2) If such county, city, town, or village has failed to timely file the required addendums,
37 the director of the department of revenue shall hold any moneys the noncompliant city, town,
38 village, or county would otherwise be entitled to under sections 66.600 to 66.630 until a
39 determination is made by the director of revenue that the noncompliant city, town, village, or
40 county has come into compliance with the provisions of sections 479.359 and 479.360.

41 (3) If any county, city, town, or village has failed to remit the required excess revenue
42 to the director of the department of revenue, the director shall distribute such moneys the county,
43 city, town, or village would otherwise be entitled to under sections 66.600 to 66.630 in the
44 amount of excess revenues that the city, town, village, or county failed to remit as provided in
45 subsection 1 of section 479.359.

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47 Upon a noncompliant city, town, village, or county coming into compliance with the provisions
48 of sections 479.359 and 479.360, the director of the department of revenue shall disburse any
49 remaining balance of funds held under this subsection after satisfaction of amounts due under
50 section 479.359 and shall notify the county to which the duties of the director have been
51 delegated under section 66.601 that such compliant city, town, village, or county is entitled to
52 distributions under sections 66.600 to 66.630. If a noncompliant city, town, village, or county
53 becomes disincorporated, any moneys held by the director of the department of revenue shall be
54 distributed to the schools of the county in the same manner that proceeds of all penalties,
55 forfeitures, and fines collected for any breach of the penal laws of the state are distributed.
56 Moneys held by the director of the department of revenue under this subsection shall not be
57 deemed to be state funds and shall not be commingled with any funds of the state.

58 3. In addition to the provisions of subsection 1 of this section, any county that fails to
59 remit the required excess revenue as required by section 479.359 shall have an election upon the
60 question of disincorporation under Article VI, Section 5 of the Constitution of Missouri, and any
61 such city, town, or village that fails to remit the required excess revenue as required by section
62 479.359 shall have an election upon the question of disincorporation according to the following
63 procedure:

64 (1) The election upon the question of disincorporation of such city, town, or village shall
65 be held on the next general election day, as defined by section 115.121;

66 (2) The director of the department of revenue shall notify the election authorities
67 responsible for conducting the election according to the terms of section 115.125 and the county
68 governing body in which the city, town, or village is located not later than 5:00 p.m. on the tenth
69 Tuesday prior to the election of the amount of the excess revenues due;

70 (3) The question shall be submitted to the voters of such city, town, or village in
71 substantially the following form:

72 The city/town/village of has kept more revenue from fines, bond forfeitures, and court
73 costs for [~~municipal ordinance violations and~~] minor traffic violations than is permitted by state
74 law and failed to remit those revenues to the county school fund. Shall the city/town/village of
75 be dissolved?

76 YES NO

77 (4) Upon notification by the director of the department of revenue, the county governing
78 body in which the city, town, or village is located shall give notice of the election for eight
79 consecutive weeks prior to the election by publication in a newspaper of general circulation
80 published in the city, town, or village, or if there is no such newspaper in the city, town, or
81 village, then in the newspaper in the county published nearest the city, town, or village; and

82 (5) Upon the affirmative vote of a majority of those persons voting on the question, the
83 county governing body shall disincorporate the city, town, or village.

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