

SECOND REGULAR SESSION

HOUSE BILL NO. 1475

99TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE BRATTIN.

4358H.011

D. ADAM CRUMBLISS, Chief Clerk

AN ACT

To repeal sections 479.350, 479.353, 479.359, 479.360, and 479.368, RSMo, and to enact in lieu thereof five new sections relating to municipal ordinance violations, with a penalty provision.

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

Section A. Sections 479.350, 479.353, 479.359, 479.360, and 479.368, RSMo, are repealed and five new sections enacted in lieu thereof, to be known as sections 479.350, 479.353, 479.359, 479.360, and 479.368, to read as follows: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, **and** 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~~ **exclude** amended charges for any minor traffic
21 violation~~].—Minor traffic violation shall exclude~~ , a violation for exceeding the speed limit by
22 more than nineteen miles per hour ~~or~~ , **and** a violation occurring within a construction zone or
23 school zone;

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

479.353. Notwithstanding any provisions to the contrary, the following conditions shall
2 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~~ **Five hundred** 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 violation,
8 ~~two~~ **three** hundred ~~seventy-five~~ dollars for the second municipal ordinance violation, ~~three~~
9 **four** hundred ~~fifty~~ dollars for the third municipal ordinance violation, and ~~four~~ **five** hundred
10 ~~fifty~~ dollars 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; **and**

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 of its annual general operating revenue received from fines, bond forfeitures, and court costs for ~~municipal ordinance violations and~~ minor traffic violations, including amended charges for any ~~municipal ordinance violations and~~ minor traffic violations, whether the violation was prosecuted in municipal court, associate circuit court, or circuit court, occurring within the county, city, town, or village. If the percentage is more than thirty percent, the excess amount shall be sent to the director of the department of revenue. The director of the department of revenue shall set forth by rule a procedure whereby excess revenues as set forth in this section shall be sent to the department of revenue. The department of revenue shall distribute these moneys annually to the schools of the county in the same manner that proceeds of all fines collected for any breach of the penal laws of this state are distributed.

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

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

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

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

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

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

~~4.]~~ 3. On or before December 31, 2015, the state auditor shall set forth by rule a procedure for including the addendum information required by this section. The rule shall also

37 allow reasonable opportunity for demonstration of compliance without unduly burdensome
38 calculations.

479.360. 1. Every county, city, town, and village shall file with the state auditor,
2 together with its report due under section 105.145, its certification of its substantial compliance
3 signed by its municipal judge with the municipal court procedures set forth in this subsection
4 during the preceding fiscal year. The procedures to be adopted and certified include the
5 following:

6 (1) Defendants in custody pursuant to an initial arrest warrant issued by a municipal
7 court have an opportunity to be heard by a judge in person, by telephone, or video conferencing
8 as soon as practicable and not later than forty-eight hours on minor traffic violations and not later
9 than seventy-two hours on other violations and, if not given that opportunity, are released;

10 (2) Defendants in municipal custody shall not be held more than twenty-four hours
11 without a warrant after arrest;

12 (3) Defendants are not detained in order to coerce payment of fines and costs unless
13 found to be in contempt after strict compliance by the court with the due process procedures
14 mandated by Missouri supreme court rule 37.65 or its successor rule;

15 ~~(4) [The municipal court has established procedures to allow indigent defendants to~~
16 ~~present evidence of their financial condition and takes such evidence into account if determining~~
17 ~~fines and costs and establishing related payment requirements;~~

18 ~~————(5)] The municipal court only assesses fines and costs as authorized by law;~~

19 ~~[(6) No additional charge shall be issued for the failure to appear for a minor traffic~~
20 ~~violation;~~

21 ~~————(7)] (5) The municipal court conducts proceedings in a courtroom that is open to the~~
22 ~~public and large enough to reasonably accommodate the public, parties, and attorneys;~~

23 ~~[(8)] (6) The municipal court makes use of alternative payment plans;~~

24 ~~[(9)] (7) The municipal court makes use of community service alternatives [for which~~
25 ~~no associated costs are charged to the defendant]; and~~

26 ~~[(10)] (8) The municipal court has adopted an electronic payment system or payment by~~
27 ~~mail for the payment of minor traffic violations.~~

28 2. On or before December 31, 2015, the state auditor shall set forth by rule a procedure
29 for including the addendum information required by this section. The rule shall also allow
30 reasonable opportunity for demonstration of compliance.

479.368. 1. (1) Except for county sales taxes deposited in the county sales tax trust fund
2 as defined in section 66.620, any county, city, town, or village failing to timely file the required
3 addendums or remit the required excess revenues, if applicable, after the time period provided
4 by the notice by the director of the department of revenue or any final determination on excess

5 revenue by the court in a judicial proceeding, whichever is later, shall not receive from that date
6 any amount of moneys to which the county, city, town, or village would otherwise be entitled
7 to receive from revenues from local sales tax as defined in section 32.085.

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

13 (3) If any county, city, town, or village has failed to remit the required excess revenue
14 to the director of the department of revenue such general local sales tax revenues shall be
15 distributed as provided in subsection 1 of section 479.359 by the director of the department of
16 revenue in the amount of excess revenues that the county, city, town, or village failed to remit.
17 Upon a noncompliant city, town, village, or county coming into compliance with the provisions
18 of sections 479.359 and 479.360, the director of the department of revenue shall disburse any
19 remaining balance of funds held under this subsection after satisfaction of amounts due under
20 section 479.359. Moneys held by the director of the department of revenue under this subsection
21 shall not be deemed to be state funds and shall not be commingled with any funds of the state.

22 2. (1) Any city, town, village, or county that participates in the distribution of local sales
23 tax in sections 66.600 to 66.630 and fails to timely file the required addendums or remit the
24 required excess revenues, if applicable, after the time period provided by the notice by the
25 director of the department of revenue or any final determination on excess revenue by the court
26 in a judicial proceeding, whichever is later, shall not receive any amount of moneys to which said
27 city, town, village, or county would otherwise be entitled under sections 66.600 to 66.630. The
28 director of the department of revenue shall notify the county to which the duties of the director
29 have been delegated under section 66.601 of any noncompliant city, town, village, or county and
30 the county shall remit to the director of the department of revenue any moneys to which said city,
31 town, village, or county would otherwise be entitled. No disbursements to the noncompliant city,
32 town, village, or county shall be permitted until a determination is made by the director of
33 revenue that the noncompliant city, town, village, or county has come into compliance with the
34 provisions of sections 479.359 and 479.360.

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

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

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

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

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

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

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

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

75 ~~_____ YES _____ NO~~

76 ~~—— (4) Upon notification by the director of the department of revenue, the county governing~~
77 ~~body in which the city, town, or village is located shall give notice of the election for eight~~
78 ~~consecutive weeks prior to the election by publication in a newspaper of general circulation~~
79 ~~published in the city, town, or village, or if there is no such newspaper in the city, town, or~~
80 ~~village, then in the newspaper in the county published nearest the city, town, or village; and~~
81 ~~—— (5) Upon the affirmative vote of a majority of those persons voting on the question, the~~
82 ~~county governing body shall disincorporate the city, town, or village.]~~

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