

SECOND REGULAR SESSION

[PERFECTED]

HOUSE COMMITTEE SUBSTITUTE FOR

HOUSE BILL NO. 1632

98TH GENERAL ASSEMBLY

5019H.02P

D. ADAM CRUMBLISS, Chief Clerk

AN ACT

To repeal sections 49.060, 79.490, 80.570, 192.300, 478.003, and section 574.010 as enacted by senate bill no. 491, ninety-seventh general assembly, second regular session, and section 574.010 as enacted by senate bill no. 180, eighty-seventh general assembly, first regular session, and to enact in lieu thereof eighteen new sections relating to political subdivisions, with penalty provisions.

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

Section A. Sections 49.060, 79.490, 80.570, 192.300, 478.003, and section 574.010 as
2 enacted by senate bill no. 491, ninety-seventh general assembly, second regular session, and
3 section 574.010 as enacted by senate bill no. 180, eighty-seventh general assembly, first regular
4 session, are repealed and eighteen new sections enacted in lieu thereof, to be known as sections
5 49.060, 77.700, 77.703, 77.706, 77.709, 77.712, 77.715, 79.490, 80.570, 82.133, 82.136, 82.139,
6 82.142, 82.145, 82.148, 192.300, 478.003, and 574.010, to read as follows:

49.060. **1.** When a vacancy shall occur in the office of a county commissioner, the
2 vacancy shall at once be certified by the clerk of the commission to the governor[, who shall fill
3 such vacancy with a person who resides in the district at the time the vacancy occurs, as provided
4 by law].

2. It shall be the duty of the governor to fill such vacancy no later than thirty-one
6 days after certification by appointing, by and with the advice and consent of the senate
7 subject to the provisions of article IV, section 51 of the Constitution of Missouri, some
8 eligible person to said office who shall discharge the duties thereof until the next general
9 election, at which time a commissioner shall be chosen for the remainder of the term, who
10 shall hold such office until a successor is duly elected and qualified, unless sooner removed.

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.

11 **3. This section shall not apply to any county that has adopted a charter for its own**
12 **government under article VI, section 18 of the Constitution of Missouri.**

77.700. 1. Notwithstanding any provision of sections 72.400 to 72.430, the county
2 **governing body of any county with a charter form of government and with more than nine**
3 **hundred fifty thousand inhabitants in which a city of the third classification is located shall**
4 **disincorporate the city as provided in this section and sections 77.700 to 77.715.**

5 **2. The county governing body shall order an election upon the question of**
6 **disincorporation of a city of the third classification upon petition of twenty-five percent of**
7 **the voters of the city.**

8 **3. The county governing body shall give notice of the election by publication in a**
9 **newspaper of general circulation published in the city or, if there is no such newspaper in**
10 **the city, then in the newspaper in the county published nearest the city. The notice shall**
11 **contain a copy of the petition and the names of the petitioners. No election on the question**
12 **of disincorporation shall be held until the notice has been published for four weeks**
13 **successively.**

14 **4. The question shall be submitted in substantially the following form:**

15 **Shall the city of be dissolved?**

16 **5. Upon the affirmative vote of fifty percent and one of those persons voting on the**
17 **question, the county governing body shall disincorporate the city.**

77.703. No dissolution of the corporation shall invalidate or affect any right
2 **accruing to the corporation or to any person or invalidate or affect any contract entered**
3 **into or imposed on the corporation.**

77.706. Whenever the county governing body shall dissolve any city of the third
2 **classification, the county governing body shall appoint some competent person to act as**
3 **trustee for the corporation so dissolved, and such trustee, before entering upon the**
4 **discharge of his or her duties, shall take and subscribe an oath that he or she will faithfully**
5 **discharge the duties of his or her office and shall give bond with sufficient security, to be**
6 **approved by the governing body, to the use of such disincorporated city, conditioned for**
7 **the faithful discharge of his or her duty.**

77.709. The trustee shall have power to prosecute and defend to final judgment all
2 **suits instituted by or against the corporation, collect all moneys due the same, liquidate all**
3 **lawful demands against the same, and for that purpose shall sell any property belonging**
4 **to the corporation, or so much thereof as may be necessary, and generally to do all acts**
5 **requisite to bring to a speedy close all the affairs of the corporation.**

77.712. The trustee shall employ counsel whenever necessary in the discharge of his
2 **or her duties and shall make a report of the proceedings to the county governing body at**

3 each regular term thereof, and the trustee shall receive for his or her services such
4 compensation as the governing body shall think reasonable.

77.715. When the trustee shall have closed the affairs of the corporation and shall
2 have paid all debts due by the corporation, he or she shall pay over to the county treasurer
3 all money remaining in his or her hands, take receipt therefor, and deliver to the clerk of
4 the county governing body all books, papers, records, and deeds belonging to the dissolved
5 corporation.

79.490. 1. The county governing body of any county in which a city of the fourth class
2 is located shall disincorporate such city as provided in this section.

3 2. (1) Except as provided in subdivision (2) of this subsection, the county governing
4 body shall order an election upon the question of disincorporation of a fourth class city upon
5 petition of one-half of the voters of the city.

6 (2) Notwithstanding any provision of sections 72.400 to 72.430, in any county with
7 a charter form of government and with more than nine hundred fifty thousand inhabitants
8 the county governing body shall order an election upon the question of disincorporation
9 of a fourth class city upon petition of twenty-five percent of the voters of the city.

10 3. The county governing body shall give notice of the election by publication in a
11 newspaper of general circulation published in the city or, if there is no such newspaper in the
12 city, then in the newspaper in the county published nearest the city. The notice shall contain a
13 copy of the petition and the names of the petitioners. No election on the question of
14 disincorporation shall be held until the notice has been published for four weeks successively.

15 4. The question shall be submitted in substantially the following form:

16 Shall the city of be dissolved?

17 5. (1) Except as provided in subdivision (2) of this subsection, upon the affirmative
18 vote of sixty percent of those persons voting on the question, the county governing body shall
19 disincorporate the city.

20 (2) Notwithstanding any provision of sections 72.400 to 72.430, in any county with
21 a charter form of government and with more than nine hundred fifty thousand inhabitants
22 upon the affirmative vote of fifty percent and one of those persons voting on the question,
23 the county governing body shall disincorporate the city.

80.570. 1. The county governing body of each county shall have power to disincorporate
2 any town or village which they may have incorporated as provided in this section.

3 2. (1) Except as provided in subdivision (2) of this subsection, the county governing
4 body shall order an election upon the question of disincorporation of a town or village upon
5 petition of one-half of the voters of the town or village.

6 **(2) Notwithstanding any provision of sections 72.400 to 72.430, in any county with**
7 **a charter form of government and with more than nine hundred fifty thousand inhabitants**
8 **the county governing body shall order an election upon the question of disincorporation**
9 **of a town or village upon petition of twenty-five percent of the voters of the town or village.**

10 3. The county governing body shall give notice of the election by publication in a
11 newspaper of general circulation published in the town or village or, if there is no such
12 newspaper in the town or village, then in the newspaper in the county published nearest the town
13 or village. The notice shall contain a copy of the petition and the names of the petitioners. No
14 election on the question of disincorporation shall be held until the notice has been published for
15 eight weeks successively.

16 4. The question shall be submitted in substantially the following form as the case may
17 be:

- 18 Shall the town of be dissolved?; or
- 19 Shall the village of be dissolved?

20 5. **(1) Except as provided in subdivision (2) of this subsection,** upon the affirmative
21 vote of sixty percent of those persons voting on the question, the county governing body shall
22 disincorporate the town or village.

23 **(2) Notwithstanding any provision of sections 72.400 to 72.430, in any county with**
24 **a charter form of government and with more than nine hundred fifty thousand inhabitants**
25 **upon the affirmative vote of fifty percent and one of those persons voting on the question,**
26 **the county governing body shall disincorporate the town or village.**

27 6. Any county governing body may, in its discretion, on the application of any person
28 or persons owning a tract of land containing five acres or more in a town or village, used only
29 for agricultural purposes, to diminish the limits of such town or village by excluding any such
30 tract of land from said corporate limits; provided, that such application shall be accompanied by
31 a petition asking such change and signed by a majority of the voters in such town or village. And
32 thereafter such tract of land so excluded shall not be deemed or held to be any part of such town
33 or village.

82.133. 1. Notwithstanding any provision of sections 72.400 to 72.430, the county
2 **governing body of any county with a charter form of government and with more than nine**
3 **hundred fifty thousand inhabitants in which a constitutional charter or home rule city is**
4 **located shall disincorporate the city as provided in sections 82.133 to 82.145.**

5 2. The county governing body shall order an election upon the question of
6 **disincorporation of a constitutional charter or home rule city upon petition of twenty-five**
7 **percent of the voters of the city.**

8 **3. The county governing body shall give notice of the election by publication in a**
 9 **newspaper of general circulation published in the city or, if there is no such newspaper in**
 10 **the city, then in the newspaper in the county published nearest the city. The notice shall**
 11 **contain a copy of the petition and the names of the petitioners. No election on the question**
 12 **of disincorporation shall be held until the notice has been published for four weeks**
 13 **successively.**

14 **4. The question shall be submitted in substantially the following form:**

15 **Shall the city of be dissolved?**

16 **5. Upon the affirmative vote of fifty percent and one of those persons voting on the**
 17 **question, the county governing body shall disincorporate the city.**

82.136. No dissolution of the corporation shall invalidate or affect any right
 2 **accruing to the corporation or to any person, or invalidate or affect any contract entered**
 3 **into or imposed on the corporation.**

82.139. Whenever the county governing body shall dissolve any constitutional
 2 **charter or home rule city, the county governing body shall appoint some competent person**
 3 **to act as trustee for the corporation so dissolved, and the trustee, before entering upon the**
 4 **discharge of his or her duties, shall take and subscribe an oath that he or she will faithfully**
 5 **discharge the duties of the office and shall give bond with sufficient security, to be**
 6 **approved by the governing body, to the use of the disincorporated city, conditioned for the**
 7 **faithful discharge of the trustee’s duty.**

82.142. The trustee shall have power to prosecute and defend to final judgment all
 2 **suits instituted by or against the corporation, collect all moneys due the same, liquidate all**
 3 **lawful demands against the same, and for that purpose shall sell any property belonging**
 4 **to the corporation, or so much thereof as may be necessary, and generally to do all acts**
 5 **requisite to bring to a speedy close all the affairs of the corporation.**

82.145. The trustee shall employ counsel whenever necessary in the discharge of his
 2 **or her duties and shall make a report of the proceedings to the county governing body at**
 3 **each regular term thereof, and the trustee shall receive for his or her services such**
 4 **compensation as the governing body shall think reasonable.**

82.148. When the trustee shall have closed the affairs of the corporation, and shall
 2 **have paid all debts due by the corporation, he or she shall pay over to the county treasurer**
 3 **all money remaining in his or her hands, take receipt therefor, and deliver to the clerk of**
 4 **the county governing body all books, papers, records, and deeds belonging to the dissolved**
 5 **corporation.**

192.300. 1. The county commissions [and] with the concurrence of the county health
 2 **center boards of the several counties may make and promulgate orders, ordinances, rules or**

3 regulations, respectively as will tend to enhance the public health and prevent the entrance of
4 infectious, contagious, communicable or dangerous diseases into such county, but any orders,
5 ordinances, rules or regulations shall not be in conflict with any rules or regulations authorized
6 and made by the department of health and senior services in accordance with this chapter or by
7 the department of social services under chapter 198. The county commissions [and] **with the**
8 **concurrence of** the county health center boards of the several counties may establish reasonable
9 fees to pay for any costs incurred in carrying out such orders, ordinances, rules or regulations,
10 however, the establishment of such fees shall not deny personal health services to those
11 individuals who are unable to pay such fees or impede the prevention or control of
12 communicable disease. Fees generated shall be deposited in the county treasury. All fees
13 generated under the provisions of this section shall be used to support the public health activities
14 for which they were generated. After the promulgation and adoption of such orders, ordinances,
15 rules or regulations by such county commission [or county health board], such commission [or
16 county health board] shall make and enter an order or record declaring such orders, ordinances,
17 rules or regulations to be printed and available for distribution to the public in the office of the
18 county clerk, and shall require a copy of such order to be published in some newspaper in the
19 county in three successive weeks, not later than thirty days after the entry of such order,
20 ordinance, rule or regulation. Any person, firm, corporation or association which violates any
21 of the orders or ordinances adopted, promulgated and published by such county commission is
22 guilty of a misdemeanor and shall be prosecuted, tried and fined as otherwise provided by law.
23 The county commission [or county health board] of any such county has full power and authority
24 to initiate the prosecution of any action under this section.

25 **2. Notwithstanding the provisions of subsection 1 of this section, in the event of an**
26 **emergency, a county commission or the county health center board may make and**
27 **promulgate any orders, ordinances, rules, or regulations in order to protect public health,**
28 **safety, or welfare, but the orders, ordinances, rules, or regulations shall not be in conflict**
29 **with any rules or regulations authorized and made by the department of health and senior**
30 **services in accordance with this chapter or by the department of social services under**
31 **chapter 198.**

478.003. In any judicial circuit of this state, a majority of the judges of the circuit court
2 may designate a judge to hear cases arising in the circuit subject to the provisions of sections
3 478.001 to 478.007. In lieu thereof and subject to appropriations or other funds available for
4 such purpose, a majority of the judges of the circuit court may appoint a person or persons to act
5 as drug court commissioners. Each commissioner shall be appointed for a term of four years,
6 but may be removed at any time by a majority of the judges of the circuit court. The
7 qualifications and compensation of the commissioner shall be the same as that of an associate

8 circuit judge. If the compensation of a commissioner appointed pursuant to this section is
9 provided from other than state funds, the source of such fund shall pay to and reimburse the state
10 for the actual costs of the salary and benefits of the commissioner. The commissioner shall have
11 all the powers and duties of a circuit judge, except that any order, judgment or decree of the
12 commissioner shall be confirmed or rejected by an associate circuit or circuit judge by order of
13 record entered within the time the judge could set aside such order, judgment or decree had the
14 same been made by the judge. If so confirmed, the order, judgment or decree shall have the same
15 effect as if made by the judge on the date of its confirmation.

574.010. 1. A person commits the offense of peace disturbance if he or she:

- 2 (1) Unreasonably and knowingly disturbs or alarms another person or persons by:
 - 3 (a) Loud noise; or
 - 4 (b) Offensive language addressed in a face-to-face manner to a specific individual and
5 uttered under circumstances which are likely to produce an immediate violent response from a
6 reasonable recipient; or
 - 7 (c) Threatening to commit a felonious act against any person under circumstances which
8 are likely to cause a reasonable person to fear that such threat may be carried out; or
 - 9 (d) Fighting; or
 - 10 (e) Creating a noxious and offensive odor;
- 11 (2) Is in a public place or on private property of another without consent and purposely
12 causes inconvenience to another person or persons by unreasonably and physically obstructing:
 - 13 (a) Vehicular or pedestrian traffic; or
 - 14 (b) The free ingress or egress to or from a public or private place.

15 **2. Notwithstanding the provisions of paragraphs (a) to (e) of subdivision (1) of**
16 **subsection 1 of this section, a person does not commit the offense of peace disturbance by**
17 **creating a loud noise or creating a noxious or offensive odor if such alleged noise or odor**
18 **arises from or is attendant to:**

- 19 (a) **The raising, maintaining, or keeping livestock as defined in section 277.020,**
20 **including but not limited to any noise or odor made directly by or coming directly from**
21 **any livestock;**
- 22 (b) **The planting, caring, maintaining, or harvesting of crops or hay; or**
- 23 (c) **The engine of a vehicle or tractor while engaged in normal business-related**
24 **activities.**

25 **3.** The offense of peace disturbance is a class B misdemeanor upon the first conviction.
26 Upon a second or subsequent conviction, peace disturbance is a class A misdemeanor. Upon a
27 third or subsequent conviction, a person shall be sentenced to pay a fine of no less than one
28 thousand dollars and no more than five thousand dollars.

574.010. 1. A person commits the crime of peace disturbance if:

(1) He unreasonably and knowingly disturbs or alarms another person or persons by:

(a) Loud noise; or

(b) Offensive language addressed in a face-to-face manner to a specific individual and uttered under circumstances which are likely to produce an immediate violent response from a reasonable recipient; or

(c) Threatening to commit a felonious act against any person under circumstances which are likely to cause a reasonable person to fear that such threat may be carried out; or

(d) Fighting; or

(e) Creating a noxious and offensive odor;

(2) He is in a public place or on private property of another without consent and purposely causes inconvenience to another person or persons by unreasonably and physically obstructing:

(a) Vehicular or pedestrian traffic; or

(b) The free ingress or egress to or from a public or private place.

2. Notwithstanding the provisions of paragraphs (a) to (e) of subdivision (1) of subsection 1 of this section, a person does not commit the crime of peace disturbance by creating a loud noise or creating a noxious or offensive odor if such alleged noise or odor arises from or is attendant to:

(a) The raising, maintaining, or keeping livestock as defined in section 277.020, including but not limited to any noise or odor made directly by or coming directly from any livestock;

(b) The planting, caring, maintaining, or harvesting of crops or hay; or

(c) The engine of a vehicle or tractor while engaged in normal business-related activities.

3. Peace disturbance is a class B misdemeanor upon the first conviction. Upon a second or subsequent conviction, peace disturbance is a class A misdemeanor. Upon a third or subsequent conviction, a person shall be sentenced to pay a fine of no less than one thousand dollars and no more than five thousand dollars.

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