

SECOND REGULAR SESSION

# SENATE BILL NO. 736

95TH GENERAL ASSEMBLY

---

---

INTRODUCED BY SENATOR MCKENNA.

Read 1st time January 6, 2010, and ordered printed.

TERRY L. SPIELER, Secretary.

3560S.021

---

---

## AN ACT

To repeal sections 52.290, 52.312, 52.361, 52.370, 54.010, 55.140, 55.190, 139.031, 139.140, 139.150, 139.210, 139.220, 140.050, 140.070, 140.080, 140.160, and 165.071, RSMo, and to enact in lieu thereof seventeen new sections relating to collection of taxes.

---

---

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

Section A. Sections 52.290, 52.312, 52.361, 52.370, 54.010, 55.140, 55.190, 2 139.031, 139.140, 139.150, 139.210, 139.220, 140.050, 140.070, 140.080, 140.160, 3 and 165.071, RSMo, are repealed and seventeen new sections enacted in lieu 4 thereof, to be known as sections 52.290, 52.312, 52.361, 52.370, 54.010, 55.140, 5 55.190, 139.031, 139.140, 139.150, 139.210, 139.220, 140.050, 140.070, 140.080, 6 140.160, and 165.071, to read as follows:

52.290. 1. In all counties except counties having a charter form of 2 government **before January 1, 2008**, and any city not within a county, the 3 collector shall collect on behalf of the county a fee for the collection of delinquent 4 and back taxes of seven percent on all sums collected to be added to the face of 5 the tax bill and collected from the party paying the tax. Two-sevenths of the fees 6 collected pursuant to the provisions of this section shall be paid into the county 7 general fund, two-sevenths of the fees collected pursuant to the provisions of this 8 section shall be paid into the tax maintenance fund of the county as required by 9 section 52.312 and three-sevenths of the fees collected pursuant to the provisions 10 of this section shall be paid into the county employees' retirement fund created 11 by sections 50.1000 to 50.1200, RSMo. **Notwithstanding provisions of law**

**EXPLANATION—Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.**

12 **to the contrary, an authorization for collection of a fee for the**  
13 **collection of delinquent and back taxes in a county's charter, at a rate**  
14 **different than the rate allowed by law, shall control.**

15         2. In all counties having a charter form of government, **other than any**  
16 **county adopting a charter form of government after January 1, 2008,**  
17 and any city not within a county, the collector shall collect on behalf of the county  
18 and pay into the county general fund a fee for the collection of delinquent and  
19 back taxes of two percent on all sums collected to be added to the face of the tax  
20 bill and collected from the party paying the tax except that in a county with a  
21 charter form of government and with more than two hundred fifty thousand but  
22 less than seven hundred thousand inhabitants, the collector shall collect on behalf  
23 of the county a fee for the collection of delinquent and back taxes of three percent  
24 on all sums collected to be added to the face of the tax bill and collected from the  
25 party paying the tax. If a county is required by section 52.312 to establish a tax  
26 maintenance fund, one-third of the fees collected under this subsection shall be  
27 paid into that fund; otherwise, all fees collected under the provisions of this  
28 subsection shall be paid into the county general fund.

29         3. Such county collector may accept credit cards as proper form of  
30 payment of outstanding delinquent and back taxes due. No county collector may  
31 charge a surcharge for payment by credit card.

52.312. Notwithstanding any provisions of law to the contrary, in addition  
2 to fees provided for in this chapter, or any other provisions of law in conflict with  
3 the provisions of this section, all counties, including any county **adopting a**  
4 **charter form of government after January 1, 2008, and any county** with  
5 a charter form of government and with more than two hundred fifty thousand but  
6 less than seven hundred thousand inhabitants, other than counties having a  
7 charter form of government **before January 1, 2008,** and any city not within a  
8 county, subject to the provisions of this section, shall establish a fund to be  
9 known as the "Tax Maintenance Fund" to be used solely as a depository for funds  
10 received or collected for the purpose of funding additional costs and expenses  
11 incurred in the office of collector.

52.361. It shall be the duty of the county collector in all counties of the  
2 first class not having a charter form of government and in class two counties to  
3 prepare and keep in [his] **the collector's office, electronically or otherwise,**  
4 back tax books which shall contain and list all delinquent taxes on real and  
5 personal property levied and assessed in the county which remain due and unpaid

6 after the first day of January of each year. Such back tax books shall replace and  
7 be in lieu of all "delinquent lists" and other back tax books heretofore prepared  
8 by the collector or other county officer.

52.370. All money disbursed by the county collector in counties of the first  
2 class not having a charter form of government and in counties of the second class  
3 by virtue of [his] **the collector's** office shall be paid by **electronic transfer of**  
4 **funds from the collector's account into the accounts of the appropriate**  
5 **taxing authorities or by** check signed by the collector and countersigned by the  
6 auditor of the county. **All disbursements shall be documented by the**  
7 **collector and certified by the auditor.**

54.010. 1. There is created in all the counties of this state the office of  
2 county treasurer, except that in those counties having adopted the township  
3 alternative form of county government the qualified electors shall elect a county  
4 collector-treasurer.

5 2. In counties of classes one and two the qualified electors shall elect a  
6 county treasurer at the general election in 1956 and every four years thereafter.

7 3. In counties of the third and fourth classifications the qualified electors  
8 shall elect a county treasurer at the general election in the year 1954, and every  
9 four years thereafter, except that in those counties having adopted the township  
10 alternative form of county government the qualified electors shall elect a county  
11 collector-treasurer at the November election in 1956, and every four years  
12 thereafter.

13 4. Laws generally applicable to county collectors, their offices, clerks, and  
14 deputies shall apply to and govern county collector-treasurers in counties having  
15 township organization, except when such general laws and such laws applicable  
16 to counties of the third and fourth classification conflict with the laws specifically  
17 applicable to county collector-treasurers, their offices, clerks, and deputies in  
18 counties having township organization, in which case, such laws shall govern.

19 **5. In the event a county of the third or fourth classification**  
20 **abolishes its township form of government under chapter 65, or a**  
21 **county collector shall become a collector-treasurer, the county**  
22 **collector-treasurer shall assume all duties, compensation, fee schedules,**  
23 **and requirements of the collector-treasurer provided under sections**  
24 **54.280 and 54.320.**

55.140. The county auditor of each county of the first class not having a  
2 charter form of government and of each county of the second class shall

3 [countersign] **have access to all records, collections, and settlements for**  
4 all licenses issued by the county and shall [keep a record of the number, date of  
5 issue,] **receive a monthly listing from each office issuing the licenses**  
6 **stating** the name of the party or parties to whom issued[, the occupation, the  
7 expiration thereof, and amount of money paid therefor, and to whom paid].

55.190. The county collector of revenue of each county of the first class not  
2 having a charter form of government and of each county of the second class shall  
3 [make] **provide, electronically or otherwise,** a daily report to the auditor of  
4 receipts [and balance in his hands, and where deposited], and shall deliver to the  
5 auditor each day a deposit slip showing the day's deposit. The collector shall,  
6 upon receiving taxes, give [duplicate] a numbered tax [receipts, which] **receipt**  
7 **to** the taxpayer [shall take to the auditor to be countersigned by him, one of  
8 which the auditor shall retain, and charge the amount thereof to the  
9 collector]. The collector shall also [make] **provide, electronically or**  
10 **otherwise,** a daily report to the auditor of all other sums of money collected by  
11 [him] **the collector** from any source whatsoever, and in such report shall state  
12 [from whom collected, and] on what account[, which sums shall be charged by the  
13 auditor to the collector] **collected.** The collector shall[, upon turning] **turn**  
14 money over to the county treasurer[, take duplicate receipts therefor and file  
15 same immediately with the county auditor] **under section 139.210, RSMo.**

139.031. 1. Any taxpayer may protest all or any part of any current taxes  
2 assessed against the taxpayer, except taxes collected by the director of revenue  
3 of Missouri. Any such taxpayer desiring to pay any current taxes under protest  
4 **or while paying taxes based upon a disputed assessment** shall, at the time  
5 of paying such taxes, **make full payment of the current tax bill before the**  
6 **delinquency date and** file with the collector a written statement setting forth  
7 the grounds on which the protest is based. The statement shall include the true  
8 value in money claimed by the taxpayer if disputed. **An appeal before the**  
9 **state tax commission shall not be dismissed on the grounds that a**  
10 **taxpayer failed to file a written statement when paying taxes based**  
11 **upon a disputed assessment.**

12 2. [For all tax years beginning on or after January 1, 2009, any taxpayer  
13 desiring to protest any current taxes shall make full payment of the current tax  
14 bill and file with the collector a written statement setting forth the grounds on  
15 which the protest is based.

16 3.] Upon receiving payment of current taxes under protest pursuant to

17 subsection 1 of this section or upon receiving from the state tax commission or the  
18 circuit court notice of an appeal from the state tax commission or the circuit court  
19 pursuant to section 138.430, RSMo, **along with full payment of the current**  
20 **tax bill before the delinquency date**, the collector shall disburse to the  
21 proper official all portions of taxes not protested or not disputed by the taxpayer  
22 and shall impound in a separate fund all portions of such taxes which are  
23 protested or in dispute. Every taxpayer protesting the payment of current taxes  
24 under subsection 1 [or 2] of this section shall, within ninety days after filing his  
25 protest, commence an action against the collector by filing a petition for the  
26 recovery of the amount protested in the circuit court of the county in which the  
27 collector maintains his office. If any taxpayer so protesting his taxes under  
28 subsection 1 [or 2] of this section shall fail to commence an action in the circuit  
29 court for the recovery of the taxes protested within the time prescribed in this  
30 subsection, such protest shall become null and void and of no effect, and the  
31 collector shall then disburse to the proper official the taxes impounded, and any  
32 interest earned thereon, as provided above in this subsection.

33 [4.] 3. No action against the collector shall be commenced by any  
34 taxpayer who has, effective for the current tax year, filed with the state tax  
35 commission or the circuit court a timely and proper appeal of the assessment of  
36 the taxpayer's property. The portion of taxes in dispute from an appeal of an  
37 assessment shall be impounded in a separate fund and the commission in its  
38 decision and order issued pursuant to chapter 138, RSMo, or the circuit court in  
39 its judgment may order all or any part of such taxes refunded to the taxpayer, or  
40 may authorize the collector to release and disburse all or any part of such taxes.

41 [5.] 4. Trial of the action for recovery of taxes protested under subsection  
42 1 [or 2] of this section in the circuit court shall be in the manner prescribed for  
43 nonjury civil proceedings, and, after determination of the issues, the court shall  
44 make such orders as may be just and equitable to refund to the taxpayer all or  
45 any part of the current taxes paid under protest, together with any interest  
46 earned thereon, or to authorize the collector to release and disburse all or any  
47 part of the impounded taxes, and any interest earned thereon, to the appropriate  
48 officials of the taxing authorities. Either party to the proceedings may appeal the  
49 determination of the circuit court.

50 [6.] 5. All the county collectors of taxes, and the collector of taxes in any  
51 city not within a county, shall, upon written application of a taxpayer, refund or  
52 credit against the taxpayer's tax liability in the following taxable year and

53 subsequent consecutive taxable years until the taxpayer has received credit in full  
54 for any real or personal property tax mistakenly or erroneously levied against the  
55 taxpayer and collected in whole or in part by the collector. Such application shall  
56 be filed within three years after the tax is mistakenly or erroneously paid. The  
57 governing body, or other appropriate body or official of the county or city not  
58 within a county, shall make available to the collector funds necessary to make  
59 refunds under this subsection by issuing warrants upon the fund to which the  
60 mistaken or erroneous payment has been credited, or otherwise.

61 [7.] 6. No taxpayer shall receive any interest on any money paid in by the  
62 taxpayer erroneously.

63 [8.] 7. All protested taxes impounded under protest under subsection 1  
64 [or 2] of this section and all disputed taxes impounded under notice as required  
65 by section 138.430, RSMo, shall be invested by the collector in the same manner  
66 as assets specified in section 30.260, RSMo, for investment of state moneys. A  
67 taxpayer who is entitled to a refund of protested or disputed taxes shall also  
68 receive the interest earned on the investment thereof. If the collector is ordered  
69 to release and disburse all or part of the taxes paid under protest or dispute to  
70 the proper official, such taxes shall be disbursed along with the proportional  
71 amount of interest earned on the investment of the taxes due the particular  
72 taxing authority.

73 [9.] 8. **Any taxing authority may request to be notified by the**  
74 **county collector of current taxes paid under protest. Such request**  
75 **shall be in writing and submitted** on or before [March] **February** first next  
76 following the delinquent date of **current** taxes paid under protest or disputed,  
77 **and** the county collector shall [notify any] **provide such information on or**  
78 **before March first of the same year to the requesting** taxing authority of  
79 the taxes paid under protest and disputed taxes which would be received by such  
80 taxing authority if the funds were not the subject of a protest or dispute. Any  
81 taxing authority may apply to the circuit court of the county or city not within a  
82 county in which a collector has impounded protested or disputed taxes under this  
83 section and, upon a satisfactory showing that such taxing authority would receive  
84 such impounded tax funds if they were not the subject of a protest or dispute and  
85 that such taxing authority has the financial ability and legal capacity to repay  
86 such impounded tax funds in the event a decision ordering a refund to the  
87 taxpayer is subsequently made, the circuit court shall order, pendente lite, the  
88 disbursement of all or any part of such impounded tax funds to such taxing

89 authority. The circuit court issuing an order under this subsection shall retain  
90 jurisdiction of such matter for further proceedings, if any, to compel restitution  
91 of such tax funds to the taxpayer. In the event that any protested or disputed tax  
92 funds refunded to a taxpayer were disbursed to a taxing authority under this  
93 subsection instead of being held and invested by the collector under subsection  
94 8 of this section, such taxing authority shall pay the taxpayer entitled to the  
95 refund of such protested or disputed taxes the same amount of interest, as  
96 determined by the circuit court having jurisdiction in the matter, such protested  
97 or disputed taxes would have earned if they had been held and invested by the  
98 collector.

99 [10.] 9. No appeal filed from the circuit court's or state tax commission's  
100 determination pertaining to the amount of refund shall stay any order of refund,  
101 but the decision filed by any court of last review modifying that determination  
102 shall be binding on the parties, and the decision rendered shall be complied with  
103 by the party affected by any modification within ninety days of the date of such  
104 decision. No taxpayer shall receive any interest on any additional award of  
105 refund, and the collector shall not receive any interest on any ordered return of  
106 refund in whole or in part.

139.140. **Except as provided in section 52.361**, the personal  
2 delinquent lists allowed to any collector shall be delivered to the collector and  
3 when [his] **the collector's** term of office expires then to [his] **the** successor, who  
4 shall be charged with the full amount thereof, and shall account therefor as for  
5 other moneys collected by [him] **the collector**. When [he] **the collector** makes  
6 [his] **the** next annual settlement [he] **the collector** shall return the lists to the  
7 clerk of the county commission, and in the city of St. Louis the lists and the  
8 uncollected tax bills to the comptroller of the city, and shall be entitled to credit  
9 for the amount [he] **the collector** has been unable to collect. The lists and bills  
10 shall be delivered to [his] **the collector's** successor, and so on until the whole  
11 are collected.

139.150. And in making collections on the said personal delinquent lists,  
2 the said collectors, **except collectors in counties of the first or second**  
3 **classifications**, shall give duplicate receipts therefor, one to be delivered to the  
4 person paying the same, and the other to be filed with the clerk of the county  
5 commission, who shall charge the collector therewith.

139.210. 1. Every county collector and [ex officio county collector]  
2 **collector-treasurer, other than the county collector of revenue of each**

3 **county of the first or second classifications and**, except in the city of St.  
4 Louis, shall, on or before the fifth day of each month, file with the county clerk  
5 a detailed statement, verified by affidavit of all state, county, school, road and  
6 municipal taxes, and of all licenses by [him] **the collector** collected during the  
7 preceding month, and shall, except for tax payments made pursuant to section  
8 139.053, on or before the fifteenth day of the month, pay the same, less [his] **the**  
9 **collector's** commissions, into the county treasuries and to the director of  
10 revenue.

11 2. **The county collector of revenue of each county of the first or**  
12 **second classifications shall, before the fifteenth day of each month, file**  
13 **with the county clerk and auditor a detailed statement, verified by**  
14 **affidavit, of all state, county, school, road, and municipal taxes and of**  
15 **all licenses collected by the collector during the preceding month, and**  
16 **shall, except for tax payments made under section 139.053, on or before**  
17 **the fifteenth day of the month, pay such taxes and licenses, less**  
18 **commissions, into the treasuries of the appropriate taxing entities and**  
19 **to the director of revenue.**

20 3. It shall be the duty of the county clerk, and [he] **the clerk** is hereby  
21 required, to forward immediately a certified copy of such detailed statement to  
22 the director of revenue, who shall keep an account of the state taxes with the  
23 collector.

139.220. Every collector of the revenue having made settlement, according  
2 to law, of county revenue [by him] collected or received **by the collector**, shall  
3 pay the amount found due into the county treasury, and the treasurer shall give  
4 him duplicate receipts therefor, one of which shall be filed in the office of the  
5 clerk of the county commission, who shall grant [him] **the collector** full quietus  
6 under the seal of the commission.

140.050. 1. **Except as provided in section 52.361**, the county clerk  
2 shall file the delinquent lists in [his] **the county clerk's** office and within ten  
3 days thereafter make, under the seal of the commission, the lists into a back tax  
4 book as provided in section 140.060.

5 2. **Except as provided in section 52.361**, when completed, the clerk  
6 shall deliver the book to the collector taking duplicate receipts therefor, one of  
7 which [he] **the clerk** shall file in [his] **the clerk's** office and the other [he] **the**  
8 **clerk** shall file with the director of revenue. The clerk shall charge the collector  
9 with the aggregate amount of taxes, interest, and clerk's fees contained in the



10 back tax book.

11           3. The collector shall collect such back taxes and may levy upon, seize and  
12 distraint tangible personal property and may sell such property for taxes.

13           4. In the city of St. Louis, the city comptroller or other proper officer shall  
14 return the back tax book together with the uncollected tax bills within thirty days  
15 to the city collector.

16           5. If any county commission or clerk **in counties not having a county**  
17 **auditor** fails to comply with section 140.040, and this section, to the extent that  
18 the collection of taxes cannot be enforced by law, the county commission or clerk,  
19 or their successors in office, shall correct such omissions at once and return the  
20 back tax book to the collector who shall collect such taxes.

140.070. All back taxes, of whatever kind, whether state, county or school,  
2 or of any city or incorporated town, which return delinquent tax lists to the  
3 county collector to collect, appearing due upon delinquent real estates shall be  
4 extended in the back tax book made under this chapter **or chapter 52**. In case  
5 the collector of any city or town has omitted or neglected to return to the county  
6 collector a list of delinquent lands and lots, as required by section 140.670, the  
7 present authorities of the city or town may cause the delinquent list to be  
8 certified, as by that section contemplated, and the delinquent taxes shall be by  
9 the county clerk put upon the back tax book and collected by the collector under  
10 authority of this chapter.

140.080. **Except as provided in section 52.361**, the county clerk and  
2 the county collector shall compare the back tax book with the corrected  
3 delinquent land list made pursuant to sections 140.030 and 140.040 respectively,  
4 and the clerk shall certify on the delinquent land list on file in **[his] the clerk's**  
5 office that the list has been properly entered in the back tax book and shall  
6 attach a certificate at the end of the back tax book that it contains a true copy of  
7 the delinquent land list on file in **[his] the collector's** office.

140.160. 1. No proceedings for the sale of land and lots for delinquent  
2 taxes pursuant to this chapter or unpaid special assessments as provided in  
3 section 67.469, RSMo, relating to the collection of delinquent and back taxes and  
4 unpaid special assessments and providing for foreclosure sale and redemption of  
5 land and lots therefor, shall be valid unless initial proceedings therefor shall be  
6 commenced within three years after delinquency of such taxes and unpaid special  
7 assessments, and any sale held pursuant to initial proceedings commenced within  
8 such period of three years shall be deemed to have been in compliance with the

9 provisions of said law insofar as the time at which such sales are to be had is  
10 specified therein; provided further, that in suits or actions to collect delinquent  
11 drainage and/or levee assessments on real estate such suits or actions shall be  
12 commenced within three years after delinquency, otherwise no suit or action  
13 therefor shall be commenced, had or maintained, except that the three-year  
14 limitation described in this subsection shall not be applicable if any written  
15 instrument conveys any real estate having a tax-exempt status, if such  
16 instrument causes such real estate to again become taxable real property and if  
17 such instrument has not been recorded in the office of the recorder in the county  
18 in which the real estate has been situated. Such three-year limitation shall only  
19 be applicable once the recording of the title has occurred.

20           2. [In order to enable county and city collectors to be able to collect  
21 delinquent and back taxes and unpaid special assessments,] The county auditor  
22 in all counties having a county auditor shall annually audit [and list all  
23 delinquent and back taxes and unpaid special assessments] **collections,**  
24 **deposits, and supporting reports of the collector** and provide a copy of such  
25 audit [and list] to the county collector and to the governing body of the county.  
26 A copy of the audit [and list] may be provided to [city collectors] **all applicable**  
27 **taxing entities** within the county at the discretion of the county collector.

165.071. 1. At least once in every month the county collector in all  
2 counties of the first and second classifications and the collector-treasurer in  
3 counties having township organization shall pay over to the treasurer of the  
4 school board of all seven-director districts all moneys received and collected by  
5 the **county collector and the** collector-treasurer to which the board is entitled  
6 and take duplicate receipts from the treasurer, one of which the **county**  
7 **collector and the** collector-treasurer shall file with the secretary of the school  
8 board and the other the collector-treasurer shall file in his or her settlement with  
9 the county commission.

10           2. The county collector in counties of the third and fourth classification,  
11 except in counties under township organization, shall pay over to the county  
12 treasurer at least once in every month all moneys received and collected by the  
13 county collector which are due each school district and shall take duplicate  
14 receipts therefor, one of which the county collector shall file in his or her  
15 settlement with the county commission. The county treasurer in such counties  
16 shall pay over to the treasurer of the school board of seven-director districts, at  
17 least once in every month, all moneys so received by the county treasurer to

18 which the board is entitled. Upon payment the county treasurer shall take  
19 duplicate receipts from the treasurer of the school board, one of which the county  
20 treasurer shall file with the secretary of the school board, and the other [he] **the**  
21 **county treasurer** shall file in his or her settlement with the county commission.

✓

Unofficial

Bill

Copy