

SECOND REGULAR SESSION
[P E R F E C T E D]
SENATE COMMITTEE SUBSTITUTE FOR
SENATE BILL NO. 829
95TH GENERAL ASSEMBLY

Reported from the Committee on Jobs, Economic Development and Local Government, March 4, 2010, with recommendation that the Senate Committee Substitute do pass and be placed on the Consent Calendar.

Removed from the Consent Calendar March 9, 2010.

Re-reported from the Committee on Jobs, Economic Development and Local Government, March 18, 2010, with recommendation that the Senate Committee Substitute do pass.

Senate Committee Substitute for Senate Bill No. 829, adopted March 23, 2010.

Taken up for Perfection March 23, 2010. Bill declared Perfected and Ordered Printed.

TERRY L. SPIELER, Secretary.

4708S.03P

AN ACT

To repeal sections 67.402 and 71.285, RSMo, and to enact in lieu thereof two new sections relating to nuisance abatement ordinances.

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

Section A. Sections 67.402 and 71.285, RSMo, are repealed and two new sections enacted in lieu thereof, to be known as sections 67.402 and 71.285, to read as follows:

67.402. 1. The governing body of **the following counties may enact nuisance abatement ordinances as provided in this section:**

(1) Any county of the first classification with more than one hundred thirty-five thousand four hundred but **[less] fewer** than one hundred thirty-five thousand five hundred inhabitants[.];

(2) Any county of the first classification with more than seventy-one thousand three hundred but **[less] fewer** than seventy-one thousand four hundred inhabitants[, and];

(3) Any county of the first classification without a charter form of government and with more than one hundred ninety-eight thousand but **[less] fewer** than one hundred ninety-nine thousand two hundred inhabitants;

(4) Any county of the first classification with more than **eighty-five thousand nine hundred but fewer than eighty-six thousand**

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

14 **inhabitants;**

15 **(5) Any county of the third classification without a township**
16 **form of government and with more than sixteen thousand four hundred**
17 **but fewer than sixteen thousand five hundred inhabitants;**

18 **(6) Any county of the third classification with a township form**
19 **of government and with more than fourteen thousand five hundred but**
20 **fewer than fourteen thousand six hundred inhabitants.**

21 **2. The governing body of any county described in subsection 1**
22 **of this section** may enact ordinances to provide for the abatement of a condition
23 of any lot or land that has the presence of rubbish and trash, lumber, bricks, tin,
24 steel, parts of derelict motorcycles, derelict cars, derelict trucks, derelict
25 construction equipment, derelict appliances, broken furniture, **tires, storm**
26 **water runoff conditions resulting in damage to buildings or**
27 **infrastructure**, or overgrown or noxious weeds in residential subdivisions or
28 districts which may endanger public safety or which is unhealthy or unsafe and
29 declared to be a public nuisance.

30 **[2.] 3.** Any ordinance enacted pursuant to this section shall:

31 (1) Set forth those conditions which constitute a nuisance and which are
32 detrimental to the health, safety, or welfare of the residents of the county;

33 (2) Provide for duties of inspectors with regard to those conditions which
34 may be declared a nuisance, and shall provide for duties of the building
35 commissioner or designated officer or officers to supervise all inspectors and to
36 hold hearings regarding such property;

37 (3) Provide for service of adequate notice of the declaration of nuisance,
38 which notice shall specify that the nuisance is to be abated, listing a reasonable
39 time for commencement, and may provide that such notice be served either by
40 personal service or by certified mail, return receipt requested, but if service
41 cannot be had by either of these modes of service, then service may be had by
42 publication. The ordinances shall further provide that the owner, occupant,
43 lessee, mortgagee, agent, and all other persons having an interest in the property
44 as shown by the land records of the recorder of deeds of the county wherein the
45 property is located shall be made parties;

46 (4) Provide that upon failure to commence work of abating the nuisance
47 within the time specified or upon failure to proceed continuously with the work
48 without unnecessary delay, the building commissioner or designated officer or
49 officers shall call and have a full and adequate hearing upon the matter before

50 the county commission, giving the affected parties at least ten days' written
51 notice of the hearing. Any party may be represented by counsel, and all parties
52 shall have an opportunity to be heard. After the hearings, if evidence supports
53 a finding that the property is a nuisance or detrimental to the health, safety, or
54 welfare of the residents of the county, the county commission shall issue an order
55 making specific findings of fact, based upon competent and substantial evidence,
56 which shows the property to be a nuisance and detrimental to the health, safety,
57 or welfare of the residents of the county and ordering the nuisance abated. If the
58 evidence does not support a finding that the property is a nuisance or detrimental
59 to the health, safety, or welfare of the residents of the county, no order shall be
60 issued.

61 [3.] 4. Any ordinance authorized by this section may provide that if the
62 owner fails to begin abating the nuisance within a specific time which shall not
63 be longer than seven days of receiving notice that the nuisance has been ordered
64 removed, the building commissioner or designated officer shall cause the
65 condition which constitutes the nuisance to be removed. If the building
66 commissioner or designated officer causes such condition to be removed or abated,
67 the cost of such removal shall be certified to the county clerk or officer in charge
68 of finance who shall cause the certified cost to be included in a special tax bill or
69 added to the annual real estate tax bill, at the county collector's option, for the
70 property and the certified cost shall be collected by the county collector in the
71 same manner and procedure for collecting real estate taxes. If the certified cost
72 is not paid, the tax bill shall be considered delinquent, and the collection of the
73 delinquent bill shall be governed by the laws governing delinquent and back
74 taxes. The tax bill from the date of its issuance shall be deemed a personal debt
75 against the owner and shall also be a lien on the property until paid.

76 **5. No county shall have the power to adopt any ordinance,**
77 **resolution, or regulation pursuant to this section governing any**
78 **railroad company.**

71.285. 1. Whenever weeds or trash, in violation of an ordinance, are
2 allowed to grow or accumulate, as the case may be, on any part of any lot or
3 ground within any city, town or village in this state, the owner of the ground, or
4 in case of joint tenancy, tenancy by entireties or tenancy in common, each owner
5 thereof, shall be liable. The marshal or other city official as designated in such
6 ordinance shall give a hearing after ten days' notice thereof, either personally or
7 by United States mail to the owner or owners, or the owner's agents, or by posting

8 such notice on the premises; thereupon, the marshal or other designated city
9 official may declare the weeds or trash to be a nuisance and order the same to be
10 abated within five days; and in case the weeds or trash are not removed within
11 the five days, the marshal or other designated city official shall have the weeds
12 or trash removed, and shall certify the costs of same to the city clerk, who shall
13 cause a special tax bill therefor against the property to be prepared and to be
14 collected by the collector, with other taxes assessed against the property; and the
15 tax bill from the date of its issuance shall be a first lien on the property until
16 paid and shall be prima facie evidence of the recitals therein and of its validity,
17 and no mere clerical error or informality in the same, or in the proceedings
18 leading up to the issuance, shall be a defense thereto. Each special tax bill shall
19 be issued by the city clerk and delivered to the collector on or before the first day
20 of June of each year. Such tax bills if not paid when due shall bear interest at
21 the rate of eight percent per annum. Notwithstanding the time limitations of this
22 section, any city, town or village located in a county of the first classification may
23 hold the hearing provided in this section four days after notice is sent or posted,
24 and may order at the hearing that the weeds or trash shall be abated within five
25 business days after the hearing and if such weeds or trash are not removed
26 within five business days after the hearing, the order shall allow the city to
27 immediately remove the weeds or trash pursuant to this section. Except for lands
28 owned by a public utility, rights-of-way, and easements appurtenant or incidental
29 to lands controlled by any railroad, the department of transportation, the
30 department of natural resources or the department of conservation, the provisions
31 of this subsection shall not apply to any city with a population of at least seventy
32 thousand inhabitants which is located in a county of the first classification with
33 a population of less than one hundred thousand inhabitants which adjoins a
34 county with a population of less than one hundred thousand inhabitants that
35 contains part of a city with a population of three hundred fifty thousand or more
36 inhabitants, any city with a population of one hundred thousand or more
37 inhabitants which is located within a county of the first classification that adjoins
38 no other county of the first classification, or any city, town or village located
39 within a county of the first classification with a charter form of government with
40 a population of nine hundred thousand or more inhabitants, or any city with a
41 population of three hundred fifty thousand or more inhabitants which is located
42 in more than one county, or the City of St. Louis, where such city, town or village
43 establishes its own procedures for abatement of weeds or trash, and such city may

44 charge its costs of collecting the tax bill, including attorney fees, in the event a
45 lawsuit is required to enforce a tax bill.

46 2. Except as provided in subsection 3 of this section, if weeds are allowed
47 to grow, or if trash is allowed to accumulate, on the same property in violation of
48 an ordinance more than once during the same growing season in the case of
49 weeds, or more than once during a calendar year in the case of trash, in any city
50 with a population of three hundred fifty thousand or more inhabitants which is
51 located in more than one county, in the City of St. Louis, in any city, town or
52 village located in a county of the first classification with a charter form of
53 government with a population of nine hundred thousand or more inhabitants, in
54 any fourth class city located in a county of the first classification with a charter
55 form of government and a population of less than three hundred thousand, or in
56 any home rule city with more than one hundred thirteen thousand two hundred
57 but less than one hundred thirteen thousand three hundred inhabitants located
58 in a county with a charter form of government and with more than six hundred
59 thousand but less than seven hundred thousand inhabitants, the marshal or other
60 designated city official may order that the weeds or trash be abated within five
61 business days after notice is sent to or posted on the property. In case the weeds
62 or trash are not removed within the five days, the marshal or other designated
63 city official may have the weeds or trash removed and the cost of the same shall
64 be billed in the manner described in subsection 1 of this section.

65 3. If weeds are allowed to grow, or if trash is allowed to accumulate, on
66 the same property in violation of an ordinance more than once during the same
67 growing season in the case of weeds, or more than once during a calendar year
68 in the case of trash, in any city with a population of three hundred fifty thousand
69 or more inhabitants which is located in more than one county, in the City of St.
70 Louis, in any city, town or village located in a county of the first classification
71 with a charter form of government with a population of nine hundred thousand
72 or more inhabitants, in any fourth class city located in a county of the first
73 classification with a charter form of government and a population of less than
74 three hundred thousand, in any home rule city with more than one hundred
75 thirteen thousand two hundred but less than one hundred thirteen thousand
76 three hundred inhabitants located in a county with a charter form of government
77 and with more than six hundred thousand but less than seven hundred thousand
78 inhabitants, [in any third class city with a population of at least ten thousand
79 inhabitants but less than fifteen thousand inhabitants with the greater part of

80 the population located in a county of the first classification, in any city of the
81 third classification with more than sixteen thousand nine hundred but less than
82 seventeen thousand inhabitants, or in any city of the third classification with
83 more than eight thousand but fewer than nine thousand inhabitants] **or in any**
84 **city of the third classification**, the marshal or other designated official may,
85 without further notification, have the weeds or trash removed and the cost of the
86 same shall be billed in the manner described in subsection 1 of this section. The
87 provisions of subsection 2 and this subsection do not apply to lands owned by a
88 public utility and lands, rights-of-way, and easements appurtenant or incidental
89 to lands controlled by any railroad.

90 4. The provisions of this section shall not apply to any city with a
91 population of one hundred thousand or more inhabitants which is located within
92 a county of the first classification that adjoins no other county of the first
93 classification where such city establishes its own procedures for abatement of
94 weeds or trash, and such city may charge its costs of collecting the tax bill,
95 including attorney fees, in the event a lawsuit is required to enforce a tax bill.

✓
Bill

Copy