

FIRST REGULAR SESSION
[TRULY AGREED TO AND FINALLY PASSED]

HOUSE BILL NO. 163

97TH GENERAL ASSEMBLY

0842H.02T

2013

AN ACT

To repeal sections 77.030, 78.090, 190.335, 473.730, 473.733, and 473.737, RSMo, and to enact in lieu thereof seven new section relating to elections, with an emergency clause.

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

Section A. Sections 77.030, 78.090, 190.335, 473.730, 473.733, and 473.737, RSMo, is repealed and seven new section enacted in lieu thereof, to be known as section 77.030, 78.090, 96.229, 190.335, 473.730, 473.733, and 473.737, to read as follows:

77.030. 1. Unless it elects to be governed by subsection 2 of this section, the council shall by ordinance divide the city into not less than four wards, and two councilmen shall be elected from each of such wards by the qualified voters thereof at the first election for councilmen in cities hereafter adopting the provisions of this chapter; the one receiving the highest number of votes in each ward shall hold his office for two years, and the one receiving the next highest number of votes shall hold his office for one year; but thereafter each ward shall elect annually one councilman, who shall hold his office for two years.

2. In lieu of electing councilmen as provided in subsection 1 of this section, the council may elect to establish wards and elect councilmen as provided in this subsection. If the council so elects, it shall, by ordinance, divide the city into not less than four wards, and one councilman shall be elected from each of such wards by the qualified voters thereof at the first election for councilmen held in the city after it adopts the provisions of this subsection. At the first election held under this subsection the councilmen elected from the odd-numbered wards shall be elected for a term of one year and the councilmen elected from the even-numbered wards shall be elected for a term of two years. At each annual election held thereafter, successors for councilmen whose terms expire in such year shall be elected for a term of two years.

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.

2 **96.229. 1. Notwithstanding subsection 5 of section 96.150 regarding the lease of**
 3 **substantially all of a hospital where the board of trustees is lessor, a city in which a hospital**
 4 **is located that:**

5 **(1) Is organized and operated under this chapter;**

6 **(2) Has not accepted appropriated funds from the city during the prior twenty**
 7 **years; and**

8 **(3) Is licensed by the department of health and senior services for two hundred**
 9 **beds or more pursuant to sections 197.010 to 197.120,**

10 **shall not have authority to sell, lease, or otherwise transfer all or substantially all of the**
 11 **property from a hospital organized under this chapter, both real and personal, except in**
 12 **accordance with this section.**

13 **2. Upon filing with the city clerk of a resolution adopted by no less than two-thirds**
 14 **of the incumbent members of the board of trustees to sell, lease, or otherwise transfer all**
 15 **or substantially all of the hospital property, both real and personal, for reasons specified**
 16 **in the resolution, the clerk shall present the resolution to the city council. If a majority of**
 17 **the incumbent members of the city council determine that sale, lease, or other transfer of**
 18 **the hospital property is desirable, the city council shall submit to the voters of the city the**
 19 **question in substantially the following form:**

20 **"Shall the city council of, Missouri and the board of trustees of**
 21 **hospital be authorized to sell (or lease or otherwise transfer) the property, real and**
 22 **personal, of hospital as approved by, and in accordance with, the resolution of the**
 23 **board of trustees authorizing such sale (or lease or transfer)?"**

24
 25 **A majority of the votes cast on such question shall be required in order to approve and**
 26 **authorize such sale, lease or other transfer. If the question receives less than the required**
 27 **majority, then the city council and the board of trustees shall have no power to sell, lease**
 28 **or otherwise transfer the property, real and personal, of the hospital unless and until the**
 29 **city council has submitted another question to authorize such sale, lease or transfer**
 30 **authorized under this section and such question is approved by the required majority of**
 31 **the qualified voters voting thereon. However, in no event shall a question under this**
 32 **section be submitted to the voters sooner than twelve months from the date of the last**
 33 **question under this section and after the adoption of another resolution by no less than**
 34 **two-thirds of the board of trustees and a subsequent vote by a majority of the city council**
 35 **to again submit the question to the voters.**

36 **3. Upon passage of such question by the voters, the board of trustees shall sell and**
 37 **dispose of such property, or lease or transfer such property, in the manner proposed by**
 38 **the board of trustees. The deed of the board of trustees, duly authorized by the board of**
 39 **trustees and duly acknowledged and recorded, shall be sufficient to convey to the**
 40 **purchaser all the rights, title, interest, and estate in the hospital property.**

41 **4. No sale, lease, or other transfer of such hospital property shall be authorized or**
 42 **effective unless such transaction provides sufficient proceeds to be available to be applied**
 43 **to the payment of all interest and principal of any outstanding valid indebtedness incurred**
 44 **for purchase of the site or construction of the hospital, or for any repairs, alterations,**
 45 **improvements, or additions thereto, or for operation of the hospital.**

46 **5. Assets donated to the hospital pursuant to section 96.210 shall be used to provide**
 47 **health care services in the city and in the geographic region previously served by the**
 48 **hospital, except as otherwise prescribed by the terms of the deed, gift, devise, or bequest.**

190.335. 1. In lieu of the tax levy authorized under section 190.305 for emergency
 2 telephone services, the county commission of any county may impose a county sales tax for the
 3 provision of central dispatching of fire protection, including law enforcement agencies,
 4 emergency ambulance service or any other emergency services, including emergency telephone
 5 services, which shall be collectively referred to herein as "emergency services", and which may
 6 also include the purchase and maintenance of communications and emergency equipment,
 7 including the operational costs associated therein, in accordance with the provisions of this
 8 section.

9 2. Such county commission may, by a majority vote of its members, submit to the voters
 10 of the county, at a public election, a proposal to authorize the county commission to impose a
 11 tax under the provisions of this section. If the residents of the county present a petition signed
 12 by a number of residents equal to ten percent of those in the county who voted in the most recent
 13 gubernatorial election, then the commission shall submit such a proposal to the voters of the
 14 county.

15 3. The ballot of submission shall be in substantially the following form:

16 Shall the county of (insert name of county) impose a county
 17 sales tax of (insert rate of percent) percent for the purpose of providing central
 18 dispatching of fire protection, emergency ambulance service, including emergency telephone
 19 services, and other emergency services?

20 YES NO

21 If a majority of the votes cast on the proposal by the qualified voters voting thereon are in favor
 22 of the proposal, then the ordinance shall be in effect as provided herein. If a majority of the votes
 23 cast by the qualified voters voting are opposed to the proposal, then the county commission shall

24 have no power to impose the tax authorized by this section unless and until the county
25 commission shall again have submitted another proposal to authorize the county commission to
26 impose the tax under the provisions of this section, and such proposal is approved by a majority
27 of the qualified voters voting thereon.

28 4. The sales tax may be imposed at a rate not to exceed one percent on the receipts from
29 the sale at retail of all tangible personal property or taxable services at retail within any county
30 adopting such tax, if such property and services are subject to taxation by the state of Missouri
31 under the provisions of sections 144.010 to 144.525. The sales tax shall not be collected prior
32 to thirty-six months before operation of the central dispatching of emergency services.

33 5. Except as modified in this section, all provisions of sections 32.085 and 32.087 shall
34 apply to the tax imposed under this section.

35 6. Any tax imposed pursuant to section 190.305 shall terminate at the end of the tax year
36 in which the tax imposed pursuant to this section for emergency services is certified by the board
37 to be fully operational. Any revenues collected from the tax authorized under section 190.305
38 shall be credited for the purposes for which they were intended.

39 7. At least once each calendar year, the board shall establish a tax rate, not to exceed the
40 amount authorized, that together with any surplus revenues carried forward will produce
41 sufficient revenues to fund the expenditures authorized by this act. Amounts collected in excess
42 of that necessary within a given year shall be carried forward to subsequent years. The board
43 shall make its determination of such tax rate each year no later than September first and shall fix
44 the new rate which shall be collected as provided in this act. Immediately upon making its
45 determination and fixing the rate, the board shall publish in its minutes the new rate, and it shall
46 notify every retailer by mail of the new rate.

47 8. Immediately upon the affirmative vote of voters of such a county on the ballot
48 proposal to establish a county sales tax pursuant to the provisions of this section, the county
49 commission shall appoint the initial members of a board to administer the funds and oversee the
50 provision of emergency services in the county. Beginning with the general election in 1994, all
51 board members shall be elected according to this section and other applicable laws of this state.
52 At the time of the appointment of the initial members of the board, the commission shall
53 relinquish and no longer exercise the duties prescribed in this chapter with regard to the
54 provision of emergency services and such duties shall be exercised by the board.

55 9. The initial board shall consist of seven members appointed without regard to political
56 affiliation, who shall be selected from, and who shall represent, the fire protection districts,
57 ambulance districts, sheriff's department, municipalities, any other emergency services and the
58 general public. This initial board shall serve until its successor board is duly elected and

59 installed in office. The commission shall ensure geographic representation of the county by
60 appointing no more than four members from each district of the county commission.

61 10. Beginning in 1994, three members shall be elected from each district of the county
62 commission and one member shall be elected at large, such member to be the chairman of the
63 board. Of those first elected, four members from districts of the county commission shall be
64 elected for terms of two years and two members from districts of the county commission and the
65 member at large shall be elected for terms of four years. In 1996, and thereafter, all terms of
66 office shall be four years. **Notwithstanding any other provision of law, if there is no
67 candidate for an open position on the board, then no election shall be held for that position
68 and it shall be considered vacant, to be filled pursuant to the provisions of section 190.339,
69 and, if there is only one candidate for each open position, no election shall be held and the
70 candidate or candidates shall assume office at the same time and in the same manner as if
71 elected.**

72 11. Notwithstanding the provisions of subsections 8 to 10 of this section to the contrary,
73 in any county of the first classification with more than two hundred forty thousand three hundred
74 but fewer than two hundred forty thousand four hundred inhabitants, any emergency telephone
75 service 911 board appointed by the county under section 190.309 which is in existence on the
76 date the voters approve a sales tax under this section shall continue to exist and shall have the
77 powers set forth under section 190.339.

78 12. (1) Notwithstanding the provisions of subsections 8 to 10 of this section to the
79 contrary, in any county of the second classification with more than fifty-four thousand two
80 hundred but fewer than fifty-four thousand three hundred inhabitants or any county of the first
81 classification with more than fifty thousand but fewer than seventy thousand inhabitants that has
82 approved a sales tax under this section, the county commission shall appoint the members of the
83 board to administer the funds and oversee the provision of emergency services in the county.

84 (2) The board shall consist of seven members appointed without regard to political
85 affiliation. Except as provided in subdivision (4) of this subsection, each member shall be one
86 of the following:

- 87 (a) The head of any of the county's fire protection districts, or a designee;
88 (b) The head of any of the county's ambulance districts, or a designee;
89 (c) The county sheriff, or a designee;
90 (d) The head of any of the police departments in the county, or a designee; and
91 (e) The head of any of the county's emergency management organizations, or a designee.

92
93 (3) Upon the appointment of the board under this subsection, the board shall have the
94 power provided in section 190.339 and shall exercise all powers and duties exercised by the

95 county commission under this chapter, and the commission shall relinquish all powers and duties
96 relating to the provision of emergency services under this chapter to the board.

97 (4) In any county of the first classification with more than fifty thousand but fewer than
98 seventy thousand inhabitants, each of the entities listed in subdivision (2) of this subsection shall
99 be represented on the board by at least one member.

473.730. 1. Every county in this state, [and] **except** the city of St. Louis, shall elect a
2 public administrator at the general election in the year 1880, and every four years thereafter, who
3 shall be ex officio public guardian and conservator in and for the public administrator's county.
4 A candidate for public administrator shall be at least twenty-one years of age and a resident of
5 the state of Missouri and the county in which he or she is a candidate for at least one year prior
6 to the date of the general election for such office. The candidate shall also be a registered voter
7 and shall be current in the payment of all personal and business taxes. Before entering on the
8 duties of the public administrator's office, the public administrator shall take the oath required
9 by the constitution, and enter into bond to the state of Missouri in a sum not less than ten
10 thousand dollars, with two or more securities, approved by the court and conditioned that the
11 public administrator will faithfully discharge all the duties of the public administrator's office,
12 which bond shall be given and oath of office taken on or before the first day of January following
13 the public administrator's election, and it shall be the duty of the judge of the court to require the
14 public administrator to make a statement annually, under oath, of the amount of property in the
15 public administrator's hands or under the public administrator's control as such administrator, for
16 the purpose of ascertaining the amount of bond necessary to secure such property; and such court
17 may from time to time, as occasion shall require, demand additional security of such
18 administrator, and, in default of giving the same within twenty days after such demand, may
19 remove the administrator and appoint another.

20 2. The public administrator in all counties, in the performance of the duties required by
21 chapters 473, 474, and 475, is a public officer. The duties specified by section 475.120 are
22 discretionary. The county shall defend and indemnify the public administrator against any
23 alleged breach of duty, provided that any such alleged breach of duty arose out of an act or
24 omission occurring within the scope of duty or employment.

25 3. After January 1, 2001, all salaried public administrators shall be considered county
26 officials for purposes of section 50.333, subject to the minimum salary requirements set forth in
27 section 473.742.

28 **4. The public administrator for the city of St. Louis shall be appointed by a**
29 **majority of the circuit judges and associate circuit judges of the twenty-second judicial**
30 **circuit, en banc. Such public administrator shall meet the same qualifications and**
31 **requirements specified in subsection 1 of this section for elected public administrators. The**

32 **elected public administrator holding office on the effective date of this section shall**
33 **continue to hold such office for the remainder of his or her term.**

473.733. The public administrator's certificate of election, **if applicable**, official oath
2 and bond shall be filed and recorded with the probate clerk, and copies thereof, certified under
3 the seal of such court, shall be evidence. Any person injured by the breach of such bond may sue
4 upon the same in the name of the state for his own use.

473.737. 1. Each public administrator elected **or appointed**, as now or as hereafter
2 provided for in sections 473.730 to 473.767, is hereby declared to be an officer for the county
3 in which such administrator is elected [and for the city of St. Louis, if elected therein] **or**
4 **appointed**. The county commissions of each county in this state shall make suitable provision
5 for an office for the public administrator in the courthouse of the county if suitable space may
6 be had for such an office, and shall be provided as soon as the county commission shall be of the
7 opinion that the business in charge of the public administrator is such as to reasonably require
8 a separate office for the convenience of the public. The public administrator of the city of St.
9 Louis shall have suitable and convenient offices provided for him or her in the civil courts
10 building by that city.

11 2. Each public administrator of a county, except a county of the first classification having
12 a charter form of government, in which a state mental hospital is located, or any county of the
13 second classification which contains a habilitation center operated by the department of mental
14 health and which does not adjoin a county of the first classification shall be entitled to one
15 secretary for one hundred cases or more handled by the office of the public administrator in the
16 immediately preceding calendar year. Each secretary employed pursuant to the provisions of this
17 subsection shall be paid in the same pay range as a court clerk II in the circuit court personnel
18 system. All compensation paid secretaries employed pursuant to the provisions of this
19 subsection shall be paid out of the county treasury and the commissioner of administration shall
20 annually reimburse each county for the compensation so paid upon proper demand being made
21 out of appropriations made for that purpose. The public administrator in such counties may also
22 appoint a person to act as public administrator to serve during the absence of the public
23 administrator.

24 3. The governing bodies of each county and each city not within a county of this state
25 may provide clerical personnel, not qualifying as status of deputy, for the public administrator
26 of the county, and such personnel shall be provided when the governing body is of the opinion
27 that the business in charge of the public administrator is such as to reasonably require such
28 personnel for the welfare of the public.

Section B. Because of the need to ensure local hospitals can continue the purpose of
2 providing the best care and treatment of the sick, disabled, and infirm persons as decided on by

3 the people in the affected community, the enactment of section 96.229 of this act is deemed
4 necessary for the immediate preservation of the public health, welfare, peace and safety, and is
5 hereby declared to be an emergency act within the meaning of the constitution, and the enactment
6 of section 96.229 of this act shall be in full force and effect upon its passage its passage and
7 approval.

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