

House _____ Amendment NO. _____

Offered By

1 AMEND Senate Substitute for Senate Committee Substitute for Senate Bill No. 5, Pages 1-5,
2 Section 302.341, Lines 1-156, by deleting all of said section and inserting in lieu thereof the
3 following:
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5 "479.020. 1. Any city, town or village, including those operating under a constitutional or
6 special charter, may, and cities with a population of four hundred thousand or more shall, provide by
7 ordinance or charter for the selection, tenure and compensation of a municipal judge or judges
8 consistent with the provisions of this chapter who shall have original jurisdiction to hear and
9 determine all violations against the ordinances of the municipality. The method of selection of
10 municipal judges shall be provided by charter or ordinance. Each municipal judge shall be selected
11 for a term of not less than two years as provided by charter or ordinance.

12 2. Except where prohibited by charter or ordinance, the municipal judge may be a part-time
13 judge and may serve as municipal judge in more than one municipality.

14 3. No person shall serve as a municipal judge of any municipality with a population of seven
15 thousand five hundred or more or of any municipality in a county of the first class with a charter
16 form of government unless the person is licensed to practice law in this state unless, prior to January
17 2, 1979, such person has served as municipal judge of that same municipality for at least two years.

18 4. Notwithstanding any other statute, a municipal judge need not be a resident of the
19 municipality or of the circuit in which the municipal judge serves except where ordinance or charter
20 provides otherwise. Municipal judges shall be residents of Missouri.

21 5. Judges selected under the provisions of this section shall be municipal judges of the circuit
22 court and shall be divisions of the circuit court of the circuit in which the municipality, or major
23 geographical portion thereof, is located. The judges of these municipal divisions shall be subject to
24 the rules of the circuit court which are not inconsistent with the rules of the supreme court. The
25 presiding judge of the circuit shall have general administrative authority over the judges and court
26 personnel of the municipal divisions within the circuit.

27 6. No municipal judge shall hold any other office in the municipality which the municipal
28 judge serves as judge. The compensation of any municipal judge and other court personnel shall not
29 be dependent in any way upon the number of cases tried, the number of guilty verdicts reached or the
30 amount of fines imposed or collected.

31 7. Municipal judges shall be at least twenty-one years of age. No person shall serve as
32 municipal judge after that person has reached that person's seventy-fifth birthday.

33 8. Within six months after selection for the position, each municipal judge who is not
34 licensed to practice law in this state shall satisfactorily complete the course of instruction for
35 municipal judges prescribed by the supreme court. The state courts administrator shall certify to the
36 supreme court the names of those judges who satisfactorily complete the prescribed course. If a

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1 municipal judge fails to complete satisfactorily the prescribed course within six months after the
2 municipal judge's selection as municipal judge, the municipal judge's office shall be deemed vacant
3 and such person shall not thereafter be permitted to serve as a municipal judge, nor shall any
4 compensation thereafter be paid to such person for serving as municipal judge.

5 9. The conduct of municipal court judges shall conform to the rules governing the judiciary
6 set forth in supreme court rules.

7 479.155. 1. By September 1, 2015, the presiding judge of the circuit court in which the
8 municipal division is located shall report to the clerk of the supreme court the name and address of
9 the municipal division and any other information regarding the municipal division requested by the
10 clerk of the supreme court on a standardized form developed by the clerk of the supreme court.

11 2. If a municipality elects to abolish or establish a municipal division, the presiding judge of
12 the circuit court in which the municipal division is located shall notify the clerk of the supreme court,
13 and the presiding judge of any new municipal division shall complete the report required under
14 subsection 1 of this section within ninety days of the establishment of the division.

15 3. The supreme court shall develop rules regarding conflict of interest for any prosecutor,
16 defense attorney, public defender, or judge that has a pending case before the municipal division of
17 any circuit court.

18 479.350. For purposes of sections 479.350 to 479.372, the following terms mean:

19 (1) "Annual general operating revenue", revenue that can be used to pay any bill or
20 obligation of a county, city, town, or village, including general sales tax; general use tax; general
21 property tax; fees from licenses and permits; unrestricted user fees, fines, bond forfeitures, and
22 penalties. Annual general operating revenue does not include designated sales or use taxes;
23 restricted user fees; grant funds; funds expended by a political subdivision for technological
24 assistance in collecting, storing, and disseminating criminal history record information and
25 facilitating criminal identification activities for the purpose of sharing criminal justice-related
26 information among political subdivisions; or other revenue designated for a specific purpose;

27 (2) "Court costs", costs, fees, or surcharges which are retained by a county, city, town, or
28 village upon a finding of guilty or plea of guilty, and shall exclude any fees disbursed to the state or
29 other entities by a county, city, town, or village;

30 (3) "Minor traffic violation", a violation prosecuted that does not involve an accident or
31 injury, that does not involve the operation of a commercial motor vehicle, and for which the
32 department of revenue is authorized to assess no more than four points to a person's driving record
33 upon conviction. Minor traffic violation shall exclude a violation for exceeding the speed limit by
34 more than nineteen miles per hour or a violation occurring within a construction zone or school zone.

35 479.353. The following conditions shall apply to minor traffic violations:

36 (1) The court shall not assess a fine, if combined with the amount of court costs, totaling in
37 excess of two hundred dollars;

38 (2) The court shall not sentence a person to confinement;

39 (3) A person shall not be placed in confinement for failure to pay a fine;

40 (4) Court costs that apply to criminal cases shall be assessed against the defendant unless the
41 court finds that the defendant is indigent based on standards set forth in determining such by the
42 presiding judge of the circuit. Such standards shall reflect model rules and requirements to be
43 developed by the supreme court; and

44 (5) No court costs shall be assessed if the case is dismissed.

45 479.359. 1. Every county, city, town, and village shall annually calculate the percentage of
46 its annual general operating revenue received from fines and court costs for charges originally cited
47 as minor traffic violations, whether the violation was prosecuted in municipal court, associate circuit
48 court, or circuit court, occurring within the county, city, town, or village. If the percentage is more

1 than thirty percent, the excess amount shall be sent to the director of the department of revenue. The
2 director of the department of revenue shall set forth by rule a procedure whereby excess revenues as
3 set forth in this section shall be sent to the department of revenue. The department of revenue shall
4 distribute these moneys annually to the schools of the county in the same manner that proceeds of all
5 finances collected for any breach of the penal laws of this state are distributed.

6 2. Beginning January 1, 2016, the percentage specified in subsection 1 of this section shall
7 be reduced from thirty percent to twenty percent, unless any county, city, town, or village has a fiscal
8 year beginning on any date other than January first, in which case the reduction shall begin on the
9 first day of the immediately following fiscal year except that any county with a charter form of
10 government and with more than nine hundred fifty thousand inhabitants shall be reduced from thirty
11 percent to fifteen percent.

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

16 (1) Defendants in municipal custody pursuant to an initial arrest warrant have an opportunity
17 to be heard by a judge in person or by telephone as soon as practicable and not later than forty-eight
18 hours on traffic violations and not later than seventy-two hours on other violations and, if not given
19 that opportunity, are released;

20 (2) Defendants in municipal custody without a warrant have an opportunity to be heard by a
21 judge in person or by telephone as soon as practicable and no later than twenty hours after an arrest
22 and, if not given that opportunity, are released;

23 (3) Defendants are not detained in order to coerce payment of fines and costs;

24 (4) The municipal court has established procedures to allow impoverished defendants to
25 present evidence of their financial condition and takes such evidence into account if determining
26 fines and costs and establishing related payment requirements;

27 (5) No sentence of incarceration is imposed unless an impoverished defendant has reasonable
28 access to an attorney if required under chapter 600;

29 (6) The municipal court only assesses fines and costs as authorized by law;

30 (7) No additional charge shall be issued for the failure to appear for a municipal charge;

31 (8) The municipal court conducts proceedings in a courtroom that is open to the public and
32 large enough to reasonably accommodate the public, parties, and attorneys;

33 (9) The municipal court makes use of alternative payment plans and community service
34 alternatives; and

35 (10) The municipal court has adopted an electronic payment system or payment by mail for
36 the payment of minor traffic violations.

37 4. An addendum to the annual financial report submitted to the state auditor by the county,
38 city, town, or village under section 105.145 shall contain an accounting of the percent of:

39 (1) The total revenues from fines and court costs for minor traffic violations occurring within
40 the county, city, town, or village, including amended charges from any minor traffic violations;

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

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

48 5. On or before December 31, 2015, the state auditor shall set forth by rule a procedure for

1 including the addendum information required by this section. The rule shall also allow reasonable
2 opportunity for demonstration of compliance without unduly burdensome calculations.

3 479.362. 1. The director of the department of revenue shall report any excess amount it has
4 received from any county, city, town, or village to the state auditor. The auditor shall review the
5 information filed in the addendum as required by section 479.359 and such information as reported
6 to it by the department of revenue and shall determine if any county, city, town, or village:

7 (1) Failed to file the addendum; or

8 (2) Failed to remit to the department of revenue the excess amount as set forth, certified, and
9 signed in the addendum.

10
11 The auditor shall send a notice by certified mail to every county, city, town, or village failing to
12 make the required filing or excess payment. The notice shall advise the county, city, town, or village
13 of the failure and state that the county, city, town, or village is to correct the failure within sixty days
14 of the date of the notice.

15 2. If a county, city, town, or village filed the required addendum after notice from the
16 auditor, the auditor shall determine whether the county, city, town, or village failed to pay the excess
17 amount required. If so, the auditor shall send the notice of failure to pay the excess amount and the
18 county, city, town, or village shall pay the excess amount within sixty days of the date of the original
19 notice.

20 3. A county, city, town, or village sent a notice by the auditor of failure to pay or failure to
21 file the required addendum under this section may seek judicial review of any determination made
22 by the state auditor by filing a petition under section 536.150 within thirty days of receipt of such
23 determination. The county, city, town, or village shall give written notice of such filing to the
24 director of revenue and the state auditor by certified mail. Within fifteen days of filing the petition,
25 the county, city, town, or village shall deposit an amount equal to any amount in dispute into the
26 registry of the circuit court by the county, city, town, or village. Failure to do so shall result in a
27 dismissal of the case.

28 4. In addition to other available remedies, if the circuit court determines that the state
29 auditor's determination as to the amount of excess funds or failure to file is in error, the circuit court
30 shall return the amount not required to be remitted to the department of revenue to the county, city,
31 town, or village immediately. The remainder of the funds held in the registry shall be paid to the
32 director of the department of revenue for distribution under subsection 1 of section 479.359.

33 5. If after a final determination is made that any county, city, town, or village failed to make
34 an accurate or timely report under section 105.145 or to send excess revenue to the director of the
35 department of revenue, any matters pending in the municipal court shall be certified to the presiding
36 judge of the circuit who shall assign the matters to other divisions within the court.

37 479.368. 1. Any county, city, town, or village failing to timely remit the required excess
38 revenues after notice by the auditor or any final determination on excess revenue by the court,
39 whichever is later, shall not receive from the date the notice becomes final any amount of moneys to
40 which the county, city, town, or village would otherwise be entitled to receive from revenues from
41 local sales tax as defined in section 32.085 to the extent that the county, city, town, or village failed
42 to remit excess revenues to the director of the department of revenue. Such general local sales tax
43 revenues shall be sent to the director of the department of revenue and shall be distributed as
44 provided in subsection 1 of section 479.359.

45 2. In addition to the provisions of subsection 1 of this section, any such county shall have an
46 election upon the question of disincorporation under article VI, section 5 of the Constitution of
47 Missouri, and any such city, town, or village shall have an election upon the question of
48 disincorporation according to the following procedure:

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

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

7 (3) The question shall be submitted to the voters of such city, town, or village in
 8 substantially the following form:

9 The city/town/village of has kept more revenue from fines, bond forfeitures,
 10 and court costs for minor traffic violations than is permitted by state law. Shall the
 11 city/town/village of be dissolved?;

12 (4) Upon notification by the director of the department of revenue, the county governing
 13 body in which the city, town, or village is located shall give notice of the election for eight
 14 consecutive weeks prior to the election by publication in a newspaper of general circulation
 15 published in the city, town, or village, or if there is no such newspaper in the city, town, or village,
 16 then in the newspaper in the county published nearest the city, town, or village; and

17 (5) Upon the affirmative vote of sixty percent of those persons voting on the question, the
 18 county governing body shall disincorporate the city, town, or village.

19 479.372. Any rule or portion of a rule, as that term is defined in section 536.010, that is
 20 created under the authority delegated in sections 479.350 to 479.372 shall become effective only if it
 21 complies with and is subject to all of the provisions of chapter 536 and, if applicable, section
 22 536.028. This section and chapter 536 are nonseverable, and if any of the powers vested with the
 23 general assembly pursuant to chapter 536 to review, to delay the effective date, or to disapprove and
 24 annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any
 25 rule proposed or adopted after August 28, 2015, shall be invalid and void.

26 [302.341. 1. If a Missouri resident charged with a moving traffic violation of this
 27 state or any county or municipality of this state fails to dispose of the charges of which the
 28 resident is accused through authorized prepayment of fine and court costs and fails to appear
 29 on the return date or at any subsequent date to which the case has been continued, or without
 30 good cause fails to pay any fine or court costs assessed against the resident for any such
 31 violation within the period of time specified or in such installments as approved by the court
 32 or as otherwise provided by law, any court having jurisdiction over the charges shall within
 33 ten days of the failure to comply inform the defendant by ordinary mail at the last address
 34 shown on the court records that the court will order the director of revenue to suspend the
 35 defendant's driving privileges if the charges are not disposed of and fully paid within thirty
 36 days from the date of mailing. Thereafter, if the defendant fails to timely act to dispose of the
 37 charges and fully pay any applicable fines and court costs, the court shall notify the director
 38 of revenue of such failure and of the pending charges against the defendant. Upon receipt of
 39 this notification, the director shall suspend the license of the driver, effective immediately,
 40 and provide notice of the suspension to the driver at the last address for the driver shown on
 41 the records of the department of revenue. Such suspension shall remain in effect until the
 42 court with the subject pending charge requests setting aside the noncompliance suspension
 43 pending final disposition, or satisfactory evidence of disposition of pending charges and
 44 payment of fine and court costs, if applicable, is furnished to the director by the individual.
 45 The filing of financial responsibility with the bureau of safety responsibility, department of
 46 revenue, shall not be required as a condition of reinstatement of a driver's license suspended
 47 solely under the provisions of this section.

48 2. If any city, town, village, or county receives more than thirty percent of its annual general

1 operating revenue from fines and court costs for traffic violations, including amended charges from
2 any traffic violation, occurring within the city, town, village, or county, all revenues from such
3 violations in excess of thirty percent of the annual general operating revenue of the city, town,
4 village, or county shall be sent to the director of the department of revenue and shall be distributed
5 annually to the schools of the county in the same manner that proceeds of all penalties, forfeitures
6 and fines collected for any breach of the penal laws of the state are distributed. The director of the
7 department of revenue shall set forth by rule a procedure whereby excess revenues as set forth above
8 shall be sent to the department of revenue. If any city, town, village, or county disputes a
9 determination that it has received excess revenues required to be sent to the department of revenue,
10 such city, town, village, or county may submit to an annual audit by the state auditor under the
11 authority of Article IV, Section 13 of the Missouri Constitution. An accounting of the percent of
12 annual general operating revenue from fines and court costs for traffic violations, including amended
13 charges from any charged traffic violation, occurring within the city, town, village, or county and
14 charged in the municipal court of that city, town, village, or county shall be included in the
15 comprehensive annual financial report submitted to the state auditor by the city, town, village, or
16 county under section 105.145. Any city, town, village, or county which fails to make an accurate or
17 timely report, or to send excess revenues from such violations to the director of the department of
18 revenue by the date on which the report is due to the state auditor shall suffer an immediate loss of
19 jurisdiction of the municipal court of said city, town, village, or county on all traffic-related charges
20 until all requirements of this section are satisfied. Any rule or portion of a rule, as that term is
21 defined in section 536.010, that is created under the authority delegated in this section shall become
22 effective only if it complies with and is subject to all of the provisions of chapter 536 and, if
23 applicable, section 536.028. This section and chapter 536 are nonseverable and if any of the powers
24 vested with the general assembly under chapter 536 to review, to delay the effective date, or to
25 disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking
26 authority and any rule proposed or adopted after August 28, 2009, shall be invalid and void.]; and
27

28 Further amend said bill by amending the title, enacting clause, and intersectional references
29 accordingly.
30