

FIRST REGULAR SESSION

HOUSE BILL NO. 1035

97TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVES KELLEY (127) (Sponsor), CONWAY (10), HURST, ANDERSON, MONTECILLO, KIRKTON, FUNDERBURK, HOUGHTON, FREDERICK, HIGDON, MARSHALL, BAHR, ENTLICHER, JOHNSON, MUNTZEL, HICKS, REMOLE, KOENIG, KELLY (45), ENGLUND, MCCAHERTY, DIEHL, CIERPIOT, HUMMEL AND RIZZO (Co-sponsors).

2235H.011

D. ADAM CRUMBLISS, Chief Clerk

AN ACT

To repeal sections 137.073, RSMo, and to enact in lieu thereof one new section relating to amended property tax rate filings with the office of the state auditor.

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

Section A. Section 137.073, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 137.073, to read as follows:

137.073. 1. As used in this section, the following terms mean:

- (1) "General reassessment", changes in value, entered in the assessor's books, of a substantial portion of the parcels of real property within a county resulting wholly or partly from reappraisal of value or other actions of the assessor or county equalization body or ordered by the state tax commission or any court;
- (2) "Tax rate", "rate", or "rate of levy", singular or plural, includes the tax rate for each purpose of taxation of property a taxing authority is authorized to levy without a vote and any tax rate authorized by election, including bond interest and sinking fund;
- (3) "Tax rate ceiling", a tax rate as revised by the taxing authority to comply with the provisions of this section or when a court has determined the tax rate; except that, other provisions of law to the contrary notwithstanding, a school district may levy the operating levy for school purposes required for the current year pursuant to subsection 2 of section 163.021, less all adjustments required pursuant to article X, section 22 of the Missouri Constitution, if such tax rate does not exceed the highest tax rate in effect subsequent to the 1980 tax year. This is

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.

15 the maximum tax rate that may be levied, unless a higher tax rate ceiling is approved by voters
16 of the political subdivision as provided in this section;

17 (4) "Tax revenue", when referring to the previous year, means the actual receipts from
18 ad valorem levies on all classes of property, including state-assessed property, in the immediately
19 preceding fiscal year of the political subdivision, plus an allowance for taxes billed but not
20 collected in the fiscal year and plus an additional allowance for the revenue which would have
21 been collected from property which was annexed by such political subdivision but which was
22 not previously used in determining tax revenue pursuant to this section. The term "tax revenue"
23 shall not include any receipts from ad valorem levies on any property of a railroad corporation
24 or a public utility, as these terms are defined in section 386.020, which were assessed by the
25 assessor of a county or city in the previous year but are assessed by the state tax commission in
26 the current year. All school districts and those counties levying sales taxes pursuant to chapter
27 67 shall include in the calculation of tax revenue an amount equivalent to that by which they
28 reduced property tax levies as a result of sales tax pursuant to section 67.505 and section 164.013
29 or as excess home dock city or county fees as provided in subsection 4 of section 313.820 in the
30 immediately preceding fiscal year but not including any amount calculated to adjust for prior
31 years. For purposes of political subdivisions which were authorized to levy a tax in the prior
32 year but which did not levy such tax or levied a reduced rate, the term "tax revenue", as used in
33 relation to the revision of tax levies mandated by law, shall mean the revenues equal to the
34 amount that would have been available if the voluntary rate reduction had not been made.

35 2. Whenever changes in assessed valuation are entered in the assessor's books for any
36 personal property, in the aggregate, or for any subclass of real property as such subclasses are
37 established in section 4(b) of article X of the Missouri Constitution and defined in section
38 137.016, the county clerk in all counties and the assessor of St. Louis City shall notify each
39 political subdivision wholly or partially within the county or St. Louis City of the change in
40 valuation of each subclass of real property, individually, and personal property, in the aggregate,
41 exclusive of new construction and improvements. All political subdivisions shall immediately
42 revise the applicable rates of levy for each purpose for each subclass of real property,
43 individually, and personal property, in the aggregate, for which taxes are levied to the extent
44 necessary to produce from all taxable property, exclusive of new construction and improvements,
45 substantially the same amount of tax revenue as was produced in the previous year for each
46 subclass of real property, individually, and personal property, in the aggregate, except that the
47 rate shall not exceed the greater of the most recent voter-approved rate or the most recent
48 voter-approved rate as adjusted under subdivision (2) of subsection 5 of this section. Any
49 political subdivision that has received approval from voters for a tax increase after August 27,
50 2008, may levy a rate to collect substantially the same amount of tax revenue as the amount of

51 revenue that would have been derived by applying the voter-approved increased tax rate ceiling
52 to the total assessed valuation of the political subdivision as most recently certified by the city
53 or county clerk on or before the date of the election in which such increase is approved, increased
54 by the percentage increase in the consumer price index, as provided by law, except that the rate
55 shall not exceed the greater of the most recent voter-approved rate or the most recent
56 voter-approved rate as adjusted under subdivision (2) of subsection 5 of this section. Such tax
57 revenue shall not include any receipts from ad valorem levies on any real property which was
58 assessed by the assessor of a county or city in such previous year but is assessed by the assessor
59 of a county or city in the current year in a different subclass of real property. Where the taxing
60 authority is a school district for the purposes of revising the applicable rates of levy for each
61 subclass of real property, the tax revenues from state-assessed railroad and utility property shall
62 be apportioned and attributed to each subclass of real property based on the percentage of the
63 total assessed valuation of the county that each subclass of real property represents in the current
64 taxable year. As provided in section 22 of article X of the constitution, a political subdivision
65 may also revise each levy to allow for inflationary assessment growth occurring within the
66 political subdivision. The inflationary growth factor for any such subclass of real property or
67 personal property shall be limited to the actual assessment growth in such subclass or class,
68 exclusive of new construction and improvements, and exclusive of the assessed value on any real
69 property which was assessed by the assessor of a county or city in the current year in a different
70 subclass of real property, but not to exceed the consumer price index or five percent, whichever
71 is lower. Should the tax revenue of a political subdivision from the various tax rates determined
72 in this subsection be different than the tax revenue that would have been determined from a
73 single tax rate as calculated pursuant to the method of calculation in this subsection prior to
74 January 1, 2003, then the political subdivision shall revise the tax rates of those subclasses of real
75 property, individually, and/or personal property, in the aggregate, in which there is a tax rate
76 reduction, pursuant to the provisions of this subsection. Such revision shall yield an amount
77 equal to such difference and shall be apportioned among such subclasses of real property,
78 individually, and/or personal property, in the aggregate, based on the relative assessed valuation
79 of the class or subclasses of property experiencing a tax rate reduction. Such revision in the tax
80 rates of each class or subclass shall be made by computing the percentage of current year
81 adjusted assessed valuation of each class or subclass with a tax rate reduction to the total current
82 year adjusted assessed valuation of the class or subclasses with a tax rate reduction, multiplying
83 the resulting percentages by the revenue difference between the single rate calculation and the
84 calculations pursuant to this subsection and dividing by the respective adjusted current year
85 assessed valuation of each class or subclass to determine the adjustment to the rate to be levied
86 upon each class or subclass of property. The adjustment computed herein shall be multiplied by

87 one hundred, rounded to four decimals in the manner provided in this subsection, and added to
88 the initial rate computed for each class or subclass of property. For school districts that levy
89 separate tax rates on each subclass of real property and personal property in the aggregate, if
90 voters approved a ballot before January 1, 2011, that presented separate stated tax rates to be
91 applied to the different subclasses of real property and personal property in the aggregate, or
92 increases the separate rates that may be levied on the different subclasses of real property and
93 personal property in the aggregate by different amounts, the tax rate that shall be used for the
94 single tax rate calculation shall be a blended rate, calculated in the manner provided under
95 subdivision (1) of subsection 6 of this section. Notwithstanding any provision of this subsection
96 to the contrary, no revision to the rate of levy for personal property shall cause such levy to
97 increase over the levy for personal property from the prior year.

98 3. (1) Where the taxing authority is a school district, it shall be required to revise the
99 rates of levy to the extent necessary to produce from all taxable property, including state-assessed
100 railroad and utility property, which shall be separately estimated in addition to other data
101 required in complying with section 164.011, substantially the amount of tax revenue permitted
102 in this section. In the year following tax rate reduction, the tax rate ceiling may be adjusted to
103 offset such district's reduction in the apportionment of state school moneys due to its reduced tax
104 rate. However, in the event any school district, in calculating a tax rate ceiling pursuant to this
105 section, requiring the estimating of effects of state-assessed railroad and utility valuation or loss
106 of state aid, discovers that the estimates used result in receipt of excess revenues, which would
107 have required a lower rate if the actual information had been known, the school district shall
108 reduce the tax rate ceiling in the following year to compensate for the excess receipts, and the
109 recalculated rate shall become the tax rate ceiling for purposes of this section.

110 (2) For any political subdivision which experiences a reduction in the amount of assessed
111 valuation relating to a prior year, due to decisions of the state tax commission or a court pursuant
112 to sections 138.430 to 138.433, or due to clerical errors or corrections in the calculation or
113 recordation of any assessed valuation:

114 (a) Such political subdivision may revise the tax rate ceiling for each purpose it levies
115 taxes to compensate for the reduction in assessed value occurring after the political subdivision
116 calculated the tax rate ceiling for the particular subclass of real property or for personal property,
117 in the aggregate, in a prior year. Such revision by the political subdivision shall be made at the
118 time of the next calculation of the tax rate for the particular subclass of real property or for
119 personal property, in the aggregate, after the reduction in assessed valuation has been determined
120 and shall be calculated in a manner that results in the revised tax rate ceiling being the same as
121 it would have been had the corrected or finalized assessment been available at the time of the
122 prior calculation;

123 (b) In addition, for up to three years following the determination of the reduction in
124 assessed valuation as a result of circumstances defined in this subdivision, such political
125 subdivision may levy a tax rate for each purpose it levies taxes above the revised tax rate ceiling
126 provided in paragraph (a) of this subdivision to recoup any revenues it was entitled to receive had
127 the corrected or finalized assessment been available at the time of the prior calculation.

128 4. (1) In order to implement the provisions of this section and section 22 of article X of
129 the Constitution of Missouri, the term improvements shall apply to both real and personal
130 property. In order to determine the value of new construction and improvements, each county
131 assessor shall maintain a record of real property valuations in such a manner as to identify each
132 year the increase in valuation for each political subdivision in the county as a result of new
133 construction and improvements. The value of new construction and improvements shall include
134 the additional assessed value of all improvements or additions to real property which were begun
135 after and were not part of the prior year's assessment, except that the additional assessed value
136 of all improvements or additions to real property which had been totally or partially exempt from
137 ad valorem taxes pursuant to sections 99.800 to 99.865, sections 135.200 to 135.255, and section
138 353.110 shall be included in the value of new construction and improvements when the property
139 becomes totally or partially subject to assessment and payment of all ad valorem taxes. The
140 aggregate increase in valuation of personal property for the current year over that of the previous
141 year is the equivalent of the new construction and improvements factor for personal property.
142 Notwithstanding any opt-out implemented pursuant to subsection 15 of section 137.115, the
143 assessor shall certify the amount of new construction and improvements and the amount of
144 assessed value on any real property which was assessed by the assessor of a county or city in
145 such previous year but is assessed by the assessor of a county or city in the current year in a
146 different subclass of real property separately for each of the three subclasses of real property for
147 each political subdivision to the county clerk in order that political subdivisions shall have this
148 information for the purpose of calculating tax rates pursuant to this section and section 22, article
149 X, Constitution of Missouri. In addition, the state tax commission shall certify each year to each
150 county clerk the increase in the general price level as measured by the Consumer Price Index for
151 All Urban Consumers for the United States, or its successor publications, as defined and
152 officially reported by the United States Department of Labor, or its successor agency. The state
153 tax commission shall certify the increase in such index on the latest twelve-month basis available
154 on February first of each year over the immediately preceding prior twelve-month period in order
155 that political subdivisions shall have this information available in setting their tax rates according
156 to law and section 22 of article X of the Constitution of Missouri. For purposes of implementing
157 the provisions of this section and section 22 of article X of the Missouri Constitution, the term
158 "property" means all taxable property, including state-assessed property.

159 (2) Each political subdivision required to revise rates of levy pursuant to this section or
160 section 22 of article X of the Constitution of Missouri shall calculate each tax rate it is authorized
161 to levy and, in establishing each tax rate, shall consider each provision for tax rate revision
162 provided in this section and section 22 of article X of the Constitution of Missouri, separately
163 and without regard to annual tax rate reductions provided in section 67.505 and section 164.013.
164 Each political subdivision shall set each tax rate it is authorized to levy using the calculation that
165 produces the lowest tax rate ceiling. It is further the intent of the general assembly, pursuant to
166 the authority of section 10(c) of article X of the Constitution of Missouri, that the provisions of
167 such section be applicable to tax rate revisions mandated pursuant to section 22 of article X of
168 the Constitution of Missouri as to reestablishing tax rates as revised in subsequent years,
169 enforcement provisions, and other provisions not in conflict with section 22 of article X of the
170 Constitution of Missouri. Annual tax rate reductions provided in section 67.505 and section
171 164.013 shall be applied to the tax rate as established pursuant to this section and section 22 of
172 article X of the Constitution of Missouri, unless otherwise provided by law.

173 5. (1) In all political subdivisions, the tax rate ceiling established pursuant to this section
174 shall not be increased unless approved by a vote of the people. Approval of the higher tax rate
175 shall be by at least a majority of votes cast. When a proposed higher tax rate requires approval
176 by more than a simple majority pursuant to any provision of law or the constitution, the tax rate
177 increase must receive approval by at least the majority required.

178 (2) When voters approve an increase in the tax rate, the amount of the increase shall be
179 added to the tax rate ceiling as calculated pursuant to this section to the extent the total rate does
180 not exceed any maximum rate prescribed by law. If a ballot question presents a stated tax rate
181 for approval rather than describing the amount of increase in the question, the stated tax rate
182 approved shall be adjusted as provided in this section and, so adjusted, shall be the current tax
183 rate ceiling. The increased tax rate ceiling as approved shall be adjusted such that when applied
184 to the current total assessed valuation of the political subdivision, excluding new construction
185 and improvements since the date of the election approving such increase, the revenue derived
186 from the adjusted tax rate ceiling is equal to the sum of: the amount of revenue which would
187 have been derived by applying the voter-approved increased tax rate ceiling to total assessed
188 valuation of the political subdivision, as most recently certified by the city or county clerk on or
189 before the date of the election in which such increase is approved, increased by the percentage
190 increase in the consumer price index, as provided by law. Such adjusted tax rate ceiling may be
191 applied to the total assessed valuation of the political subdivision at the setting of the next tax
192 rate. If a ballot question presents a phased-in tax rate increase, upon voter approval, each tax rate
193 increase shall be adjusted in the manner prescribed in this section to yield the sum of: the
194 amount of revenue that would be derived by applying such voter-approved increased rate to the

195 total assessed valuation, as most recently certified by the city or county clerk on or before the
196 date of the election in which such increase was approved, increased by the percentage increase
197 in the consumer price index, as provided by law, from the date of the election to the time of such
198 increase and, so adjusted, shall be the current tax rate ceiling.

199 (3) The governing body of any political subdivision may levy a tax rate lower than its
200 tax rate ceiling and may, in a nonreassessment year, increase that lowered tax rate to a level not
201 exceeding the tax rate ceiling without voter approval in the manner provided under subdivision
202 (4) of this subsection. Nothing in this section shall be construed as prohibiting a political
203 subdivision from voluntarily levying a tax rate lower than that which is required under the
204 provisions of this section or from seeking voter approval of a reduction to such political
205 subdivision's tax rate ceiling.

206 (4) In a year of general reassessment, a governing body whose tax rate is lower than its
207 tax rate ceiling shall revise its tax rate pursuant to the provisions of subsection 4 of this section
208 as if its tax rate was at the tax rate ceiling. In a year following general reassessment, if such
209 governing body intends to increase its tax rate, the governing body shall conduct a public
210 hearing, and in a public meeting it shall adopt an ordinance, resolution, or policy statement
211 justifying its action prior to setting and certifying its tax rate. The provisions of this subdivision
212 shall not apply to any political subdivision which levies a tax rate lower than its tax rate ceiling
213 solely due to a reduction required by law resulting from sales tax collections. The provisions of
214 this subdivision shall not apply to any political subdivision which has received voter approval
215 for an increase to its tax rate ceiling subsequent to setting its most recent tax rate.

216 6. (1) For the purposes of calculating state aid for public schools pursuant to section
217 163.031, each taxing authority which is a school district shall determine its proposed tax rate as
218 a blended rate of the classes or subclasses of property. Such blended rate shall be calculated by
219 first determining the total tax revenue of the property within the jurisdiction of the taxing
220 authority, which amount shall be equal to the sum of the products of multiplying the assessed
221 valuation of each class and subclass of property by the corresponding tax rate for such class or
222 subclass, then dividing the total tax revenue by the total assessed valuation of the same
223 jurisdiction, and then multiplying the resulting quotient by a factor of one hundred. Where the
224 taxing authority is a school district, such blended rate shall also be used by such school district
225 for calculating revenue from state-assessed railroad and utility property as defined in chapter 151
226 and for apportioning the tax rate by purpose.

227 (2) Each taxing authority proposing to levy a tax rate in any year shall notify the clerk
228 of the county commission in the county or counties where the tax rate applies of its tax rate
229 ceiling and its proposed tax rate. Each taxing authority shall express its proposed tax rate in a
230 fraction equal to the nearest one-tenth of a cent, unless its proposed tax rate is in excess of one

231 dollar, then one/one-hundredth of a cent. If a taxing authority shall round to one/one-hundredth
232 of a cent, it shall round up a fraction greater than or equal to five/one-thousandth of one cent to
233 the next higher one/one-hundredth of a cent; if a taxing authority shall round to one-tenth of a
234 cent, it shall round up a fraction greater than or equal to five/one-hundredths of a cent to the next
235 higher one-tenth of a cent. Any taxing authority levying a property tax rate shall provide data,
236 in such form as shall be prescribed by the state auditor by rule, substantiating such tax rate
237 complies with Missouri law. All forms for the calculation of rates pursuant to this section shall
238 be promulgated as a rule and shall not be incorporated by reference. The state auditor shall
239 promulgate rules for any and all forms for the calculation of rates pursuant to this section which
240 do not currently exist in rule form or that have been incorporated by reference. In addition, each
241 taxing authority proposing to levy a tax rate for debt service shall provide data, in such form as
242 shall be prescribed by the state auditor by rule, substantiating the tax rate for debt service
243 complies with Missouri law. A tax rate proposed for annual debt service requirements will be
244 prima facie valid if, after making the payment for which the tax was levied, bonds remain
245 outstanding and the debt fund reserves do not exceed the following year's payments. The county
246 clerk shall keep on file and available for public inspection all such information for a period of
247 three years. The clerk shall, within three days of receipt, forward a copy of the notice of a taxing
248 authority's tax rate ceiling and proposed tax rate and any substantiating data to the state auditor.
249 The state auditor shall, within fifteen days of the date of receipt, examine such information and
250 return to the county clerk his or her findings as to compliance of the tax rate ceiling with this
251 section and as to compliance of any proposed tax rate for debt service with Missouri law. If the
252 state auditor believes that a taxing authority's proposed tax rate does not comply with Missouri
253 law, then the state auditor's findings shall include a recalculated tax rate, and the state auditor
254 may request a taxing authority to submit documentation supporting such taxing authority's
255 proposed tax rate. The county clerk shall immediately forward a copy of the auditor's findings
256 to the taxing authority and shall file a copy of the findings with the information received from
257 the taxing authority. The taxing authority shall have fifteen days from the date of receipt from
258 the county clerk of the state auditor's findings and any request for supporting documentation to
259 accept or reject in writing the rate change certified by the state auditor and to submit all requested
260 information to the state auditor. A copy of the taxing authority's acceptance or rejection and any
261 information submitted to the state auditor shall also be mailed to the county clerk. If a taxing
262 authority rejects a rate change certified by the state auditor and the state auditor does not receive
263 supporting information which justifies the taxing authority's original or any subsequent proposed
264 tax rate, then the state auditor shall refer the perceived violations of such taxing authority to the
265 attorney general's office and the attorney general is authorized to obtain injunctive relief to
266 prevent the taxing authority from levying a violative tax rate.

267 **(3) In the event that the taxing authority incorrectly completes the forms created**
268 **and promulgated under subdivision (2) of this subsection, or makes a clerical error, the**
269 **taxing authority may submit amended forms with an explanation for the needed changes.**
270 **If such amended forms are filed, the state auditor shall utilize such amended forms for the**
271 **purposes of this subsection.**

272 7. No tax rate shall be extended on the tax rolls by the county clerk unless the political
273 subdivision has complied with the foregoing provisions of this section.

274 8. Whenever a taxpayer has cause to believe that a taxing authority has not complied
275 with the provisions of this section, the taxpayer may make a formal complaint with the
276 prosecuting attorney of the county. Where the prosecuting attorney fails to bring an action within
277 ten days of the filing of the complaint, the taxpayer may bring a civil action pursuant to this
278 section and institute an action as representative of a class of all taxpayers within a taxing
279 authority if the class is so numerous that joinder of all members is impracticable, if there are
280 questions of law or fact common to the class, if the claims or defenses of the representative
281 parties are typical of the claims or defenses of the class, and if the representative parties will
282 fairly and adequately protect the interests of the class. In any class action maintained pursuant
283 to this section, the court may direct to the members of the class a notice to be published at least
284 once each week for four consecutive weeks in a newspaper of general circulation published in
285 the county where the civil action is commenced and in other counties within the jurisdiction of
286 a taxing authority. The notice shall advise each member that the court will exclude him or her
287 from the class if he or she so requests by a specified date, that the judgment, whether favorable
288 or not, will include all members who do not request exclusion, and that any member who does
289 not request exclusion may, if he or she desires, enter an appearance. In any class action brought
290 pursuant to this section, the court, in addition to the relief requested, shall assess against the
291 taxing authority found to be in violation of this section the reasonable costs of bringing the
292 action, including reasonable attorney's fees, provided no attorney's fees shall be awarded any
293 attorney or association of attorneys who receive public funds from any source for their services.
294 Any action brought pursuant to this section shall be set for hearing as soon as practicable after
295 the cause is at issue.

296 9. If in any action, including a class action, the court issues an order requiring a taxing
297 authority to revise the tax rates as provided in this section or enjoins a taxing authority from the
298 collection of a tax because of its failure to revise the rate of levy as provided in this section, any
299 taxpayer paying his or her taxes when an improper rate is applied has erroneously paid his or her
300 taxes in part, whether or not the taxes are paid under protest as provided in section 139.031 or
301 otherwise contested. The part of the taxes paid erroneously is the difference in the amount
302 produced by the original levy and the amount produced by the revised levy. The township or

303 county collector of taxes or the collector of taxes in any city shall refund the amount of the tax
304 erroneously paid. The taxing authority refusing to revise the rate of levy as provided in this
305 section shall make available to the collector all funds necessary to make refunds pursuant to this
306 subsection. No taxpayer shall receive any interest on any money erroneously paid by him or her
307 pursuant to this subsection. Effective in the 1994 tax year, nothing in this section shall be
308 construed to require a taxing authority to refund any tax erroneously paid prior to or during the
309 third tax year preceding the current tax year.

310 10. Any rule or portion of a rule, as that term is defined in section 536.010, that is
311 created under the authority delegated in this section shall become effective only if it complies
312 with and is subject to all of the provisions of chapter 536 and, if applicable, section 536.028.
313 This section and chapter 536 are nonseverable and if any of the powers vested with the general
314 assembly pursuant to chapter 536 to review, to delay the effective date, or to disapprove and
315 annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and
316 any rule proposed or adopted after August 28, 2004, shall be invalid and void.

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