

SECOND REGULAR SESSION

# SENATE BILL NO. 692

99TH GENERAL ASSEMBLY

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INTRODUCED BY SENATOR EMERY.

Pre-filed December 1, 2017, and ordered printed.

ADRIANE D. CROUSE, Secretary.

4029S.011

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## AN ACT

To repeal sections 479.350, 479.353, 479.359, 479.360, and 479.368, RSMo, and to enact in lieu thereof five new sections relating to municipal ordinance violations.

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

Section A. Sections 479.350, 479.353, 479.359, 479.360, and 479.368, RSMo, are repealed and five new sections enacted in lieu thereof, to be known as sections 479.350, 479.353, 479.359, 479.360, and 479.368, to read as follows:

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

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

(2) "Court costs", costs, fees, or surcharges which are retained by a county, city, town, or village upon a finding of guilty or plea of guilty, and shall exclude any costs, fees, or surcharges disbursed to the state or other entities by a county, city, town, or village and any certified costs, not including fines added to the annual real estate tax bill or a special tax bill under section 67.398, 67.402, or

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

18 67.451;

19 (3) "Minor traffic violation", a municipal or county traffic ordinance  
20 violation prosecuted that does not involve an accident or injury, that does not  
21 involve the operation of a commercial motor vehicle, and for which no points are  
22 assessed by the department of revenue or the department of revenue is authorized  
23 to assess one to four points to a person's driving record upon conviction. Minor  
24 traffic violation shall ~~[include]~~ **exclude** amended charges for any minor traffic  
25 violation~~[. Minor traffic violation shall exclude]~~, a violation for exceeding the  
26 speed limit by more than nineteen miles per hour or a violation occurring within  
27 a construction zone or school zone;

28 (4) "Municipal ordinance violation", a municipal or county ordinance  
29 violation prosecuted for which penalties are authorized by statute under sections  
30 64.160, 64.200, 64.295, 64.487, 64.690, 64.895, 67.398, 71.285, 89.120, and  
31 89.490. Municipal ordinance violation shall include amended charges for  
32 municipal ordinance violations.

479.353. Notwithstanding any provisions to the contrary, the following  
2 conditions shall apply to minor traffic violations and municipal ordinance  
3 violations:

4 (1) The court shall not assess a fine, if combined with the amount of court  
5 costs, totaling in excess of:

6 (a) ~~[Two hundred twenty-five]~~ **Five hundred** dollars for minor traffic  
7 violations; and

8 (b) For municipal ordinance violations committed within a twelve-month  
9 period beginning with the first violation: two hundred dollars for the first  
10 municipal ordinance violation, ~~[two]~~ **three** hundred ~~[seventy-five]~~ dollars for the  
11 second municipal ordinance violation, ~~[three]~~ **four** hundred ~~[fifty]~~ dollars for the  
12 third municipal ordinance violation, and ~~[four]~~ **five** hundred ~~[fifty]~~ dollars for the  
13 fourth and any subsequent municipal ordinance violations;

14 (2) The court shall not sentence a person to confinement, except the court  
15 may sentence a person to confinement for any violation involving alcohol or  
16 controlled substances, violations endangering the health or welfare of others, or  
17 eluding or giving false information to a law enforcement officer;

18 (3) A person shall not be placed in confinement for failure to pay a fine  
19 unless such nonpayment violates terms of probation or unless the due process  
20 procedures mandated by Missouri supreme court rule 37.65 or its successor rule  
21 are strictly followed by the court; **and**

22 (4) [Court costs that apply shall be assessed against the defendant unless  
23 the court finds that the defendant is indigent based on standards set forth in  
24 determining such by the presiding judge of the circuit. Such standards shall  
25 reflect model rules and requirements to be developed by the supreme court; and

26 (5)] No court costs shall be assessed if the [defendant is found to be  
27 indigent under subdivision (4) of this section or if the] case is dismissed.

479.359. 1. Every county, city, town, and village shall annually calculate  
2 the percentage of its annual general operating revenue received from fines, bond  
3 forfeitures, and court costs for [municipal ordinance violations and] minor traffic  
4 violations, including amended charges for any [municipal ordinance violations  
5 and] minor traffic violations, whether the violation was prosecuted in municipal  
6 court, associate circuit court, or circuit court, occurring within the county, city,  
7 town, or village. If the percentage is more than thirty percent, the excess amount  
8 shall be sent to the director of the department of revenue. The director of the  
9 department of revenue shall set forth by rule a procedure whereby excess  
10 revenues as set forth in this section shall be sent to the department of  
11 revenue. The department of revenue shall distribute these moneys annually to  
12 the schools of the county in the same manner that proceeds of all fines collected  
13 for any breach of the penal laws of this state are distributed.

14 2. [Beginning January 1, 2016, the percentage specified in subsection 1  
15 of this section shall be reduced from thirty percent to twenty percent, unless any  
16 county, city, town, or village has a fiscal year beginning on any date other than  
17 January first, in which case the reduction shall begin on the first day of the  
18 immediately following fiscal year except that any county with a charter form of  
19 government and with more than nine hundred fifty thousand inhabitants and any  
20 city, town, or village with boundaries found within such county shall be reduced  
21 from thirty percent to twelve and one-half percent.

22 3.] An addendum to the annual financial report submitted to the state  
23 auditor under section 105.145 by the county, city, town, or village that has chosen  
24 to have a municipal court division shall contain an accounting of:

25 (1) Annual general operating revenue [as defined in section 479.350];

26 (2) The total revenues from fines, bond forfeitures, and court costs for  
27 municipal ordinance violations and minor traffic violations occurring within the  
28 county, city, town, or village, including amended charges from any municipal  
29 ordinance violations and minor traffic violations;

30 (3) The percent of annual general operating revenue from fines, bond

31 forfeitures, and court costs for municipal ordinance violations and minor traffic  
32 violations occurring within the county, city, town, or village, including amended  
33 charges from any charged municipal ordinance violations and minor traffic  
34 violation, charged in the municipal court of that county, city, town, or village; and

35 (4) Said addendum shall be certified and signed by a representative with  
36 knowledge of the subject matter as to the accuracy of the addendum contents,  
37 under oath and under the penalty of perjury, and witnessed by a notary public.

38 [4.] 3. On or before December 31, 2015, the state auditor shall set forth  
39 by rule a procedure for including the addendum information required by this  
40 section. The rule shall also allow reasonable opportunity for demonstration of  
41 compliance without unduly burdensome calculations.

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

6 (1) Defendants in custody pursuant to an initial arrest warrant issued by  
7 a municipal court have an opportunity to be heard by a judge in person, by  
8 telephone, or video conferencing as soon as practicable and not later than  
9 forty-eight hours on minor traffic violations and not later than seventy-two hours  
10 on other violations and, if not given that opportunity, are released;

11 (2) Defendants in municipal custody shall not be held more than  
12 twenty-four hours without a warrant after arrest;

13 (3) Defendants are not detained in order to coerce payment of fines and  
14 costs unless found to be in contempt after strict compliance by the court with the  
15 due process procedures mandated by Missouri supreme court rule 37.65 or its  
16 successor rule;

17 (4) [The municipal court has established procedures to allow indigent  
18 defendants to present evidence of their financial condition and takes such  
19 evidence into account if determining fines and costs and establishing related  
20 payment requirements;

21 (5)] The municipal court only assesses fines and costs as authorized by  
22 law;

23 [(6) No additional charge shall be issued for the failure to appear for a  
24 minor traffic violation;

25 (7)] (5) The municipal court conducts proceedings in a courtroom that is

26 open to the public and large enough to reasonably accommodate the public,  
27 parties, and attorneys;

28        [(8)] (6) The municipal court makes use of alternative payment plans;

29        [(9)] (7) The municipal court makes use of community service  
30 alternatives [for which no associated costs are charged to the defendant]; and

31        [(10)] (8) The municipal court has adopted an electronic payment system  
32 or payment by mail for the payment of minor traffic violations.

33        2. On or before December 31, 2015, the state auditor shall set forth by  
34 rule a procedure for including the addendum information required by this  
35 section. The rule shall also allow reasonable opportunity for demonstration of  
36 compliance.

479.368. 1. (1) Except for county sales taxes deposited in the county  
2 sales tax trust fund as defined in section 66.620, any county, city, town, or village  
3 failing to timely file the required addendums or remit the required excess  
4 revenues, if applicable, after the time period provided by the notice by the  
5 director of the department of revenue or any final determination on excess  
6 revenue by the court in a judicial proceeding, whichever is later, shall not receive  
7 from that date any amount of moneys to which the county, city, town, or village  
8 would otherwise be entitled to receive from revenues from local sales tax as  
9 defined in section 32.085.

10        (2) If any county, city, town, or village has failed to timely file the  
11 required addendums, the director of the department of revenue shall hold any  
12 moneys the noncompliant city, town, village, or county would otherwise be  
13 entitled to from local sales tax as defined in section 32.085 until a determination  
14 is made by the director of revenue that the noncompliant city, town, village, or  
15 county has come into compliance with the provisions of sections 479.359 and  
16 479.360.

17        (3) If any county, city, town, or village has failed to remit the required  
18 excess revenue to the director of the department of revenue such general local  
19 sales tax revenues shall be distributed as provided in subsection 1 of section  
20 479.359 by the director of the department of revenue in the amount of excess  
21 revenues that the county, city, town, or village failed to remit.

22 Upon a noncompliant city, town, village, or county coming into compliance with  
23 the provisions of sections 479.359 and 479.360, the director of the department of  
24 revenue shall disburse any remaining balance of funds held under this subsection  
25 after satisfaction of amounts due under section 479.359. Moneys held by the

26 director of the department of revenue under this subsection shall not be deemed  
27 to be state funds and shall not be commingled with any funds of the state.

28         2. (1) Any city, town, village, or county that participates in the  
29 distribution of local sales tax in sections 66.600 to 66.630 and fails to timely file  
30 the required addendums or remit the required excess revenues, if applicable, after  
31 the time period provided by the notice by the director of the department of  
32 revenue or any final determination on excess revenue by the court in a judicial  
33 proceeding, whichever is later, shall not receive any amount of moneys to which  
34 said city, town, village, or county would otherwise be entitled under sections  
35 66.600 to 66.630. The director of the department of revenue shall notify the  
36 county to which the duties of the director have been delegated under section  
37 66.601 of any noncompliant city, town, village, or county and the county shall  
38 remit to the director of the department of revenue any moneys to which said city,  
39 town, village, or county would otherwise be entitled. No disbursements to the  
40 noncompliant city, town, village, or county shall be permitted until a  
41 determination is made by the director of revenue that the noncompliant city,  
42 town, village, or county has come into compliance with the provisions of sections  
43 479.359 and 479.360.

44         (2) If such county, city, town, or village has failed to timely file the  
45 required addendums, the director of the department of revenue shall hold any  
46 moneys the noncompliant city, town, village, or county would otherwise be  
47 entitled to under sections 66.600 to 66.630 until a determination is made by the  
48 director of revenue that the noncompliant city, town, village, or county has come  
49 into compliance with the provisions of sections 479.359 and 479.360.

50         (3) If any county, city, town, or village has failed to remit the required  
51 excess revenue to the director of the department of revenue, the director shall  
52 distribute such moneys the county, city, town, or village would otherwise be  
53 entitled to under sections 66.600 to 66.630 in the amount of excess revenues that  
54 the city, town, village, or county failed to remit as provided in subsection 1 of  
55 section 479.359.

56 Upon a noncompliant city, town, village, or county coming into compliance with  
57 the provisions of sections 479.359 and 479.360, the director of the department of  
58 revenue shall disburse any remaining balance of funds held under this subsection  
59 after satisfaction of amounts due under section 479.359 and shall notify the  
60 county to which the duties of the director have been delegated under section  
61 66.601 that such compliant city, town, village, or county is entitled to

62 distributions under sections 66.600 to 66.630. If a noncompliant city, town,  
63 village, or county becomes disincorporated, any moneys held by the director of the  
64 department of revenue shall be distributed to the schools of the county in the  
65 same manner that proceeds of all penalties, forfeitures, and fines collected for any  
66 breach of the penal laws of the state are distributed. Moneys held by the director  
67 of the department of revenue under this subsection shall not be deemed to be  
68 state funds and shall not be commingled with any funds of the state.

69 [3. In addition to the provisions of subsection 1 of this section, any county  
70 that fails to remit the required excess revenue as required by section 479.359  
71 shall have an election upon the question of disincorporation under Article VI,  
72 Section 5 of the Constitution of Missouri, and any such city, town, or village that  
73 fails to remit the required excess revenue as required by section 479.359 shall  
74 have an election upon the question of disincorporation according to the following  
75 procedure:

76 (1) The election upon the question of disincorporation of such city, town,  
77 or village shall be held on the next general election day, as defined by section  
78 115.121;

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

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

86 The city/town/village of \_\_\_\_\_ has kept more revenue from fines, bond  
87 forfeitures, and court costs for municipal ordinance violations and minor traffic  
88 violations than is permitted by state law and failed to remit those revenues to the  
89 county school fund. Shall the city/town/village of \_\_\_\_\_ be dissolved?

90  YES  NO

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

97 (5) Upon the affirmative vote of a majority of those persons voting on the

98 question, the county governing body shall disincorporate the city, town, or  
99 village.]

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