

MACKS CREEK II

by Ken Heinz

On March 28, 2016, Judge Jon Beetem of the Circuit Court of Cole County struck down portions of what is commonly known as Senate Bill 5 (Macks Creek II), legislation that passed in May of 2015 and generally went into effect on Aug. 28, 2015. The ruling was a result of a lawsuit filed by 12 communities in St. Louis County and two individuals. The Judge ruled in favor of the Plaintiff (cities and individuals) on their contention that portions of SB 5 were a special law designed solely for St. Louis County and therefore illegal. The Court issued a declaratory judgment and an injunction against Section 67.287 of the Revised Statutes of Missouri that states certain minimum standards must be met in St. Louis County within three years, including a balanced budget, an annual audit, accounting, insurance, police certification by the Commission on Accreditation for Law Enforcement Agencies (CALEA) or the Missouri

Police Chief's Association, certain written policies for police, construction code review, and website publication. This portion of the law was stricken in its entirety as being in violation of the Hancock Amendment as creating an unfunded mandate. It was also held to be illegal as a special law since it was only framed as standards for municipalities in St. Louis County.

The Court also ruled in favor of the plaintiffs' argument that the percentage of traffic violation revenue that had been reduced statewide from 30 percent to 20 percent beginning Jan. 1, 2016, was a special law because it reduced the revenue cap from 30 percent to 12.5 percent in St. Louis County. The Court also struck down the part of 479.359 RSMo that required an addendum to the annual financial report with calculations regarding the total minor traffic revenues and percentage of general operating revenues. The Court appeared to leave in effect the 20 percent

cap statewide and the requirement that every city shall annually calculate the costs for minor traffic violations as a percentage of annual general operating revenue and pay over any excess.

The Court rejected several other challenges that the plaintiffs had made to SB.

Both the Attorney General may appeal on behalf of the defendants and the plaintiffs may appeal with respect to the dismissal of the additional claims.

Other provisions of SB 5, such as limiting minor traffic violations to \$300 for fine and costs, limiting confinement for minor traffic violations, indigency, custody hearings, no failure to appear charges for minor traffic violations, income tax setoff for fines, etc., were unaffected by the ruling. □

Kenneth J. Heinz is a Principal with Curtis, Heinz, Garrett & O'Keefe, P.C. He serves as general counsel for several communities. Heinz has been active as special counsel to many municipalities in Missouri and Illinois on municipal issues. He has delivered seminars to many public and private groups at the local and state level on municipal issues, such as municipal contracts, zoning and sunshine law. Contact the firm at 314-725-8788 or www.chgolaw.com.

Learn more about SB 5 from the July 2015 issue of the Missouri Municipal Review magazine, contributed by Carl Lumley, Ken Heinz and Kevin O'Keefe of Curtis, Heinz, Garrett and O'Keefe P.C., in St. Louis. Find the article at http://c.ymcdn.com/sites/www.mocities.com/resource/resmgr/July_Review/Macks_Creek_SB5_Analysis.pdf.



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