

FIRST REGULAR SESSION
HOUSE COMMITTEE SUBSTITUTE FOR
SENATE SUBSTITUTE FOR
SENATE COMMITTEE SUBSTITUTE FOR
SENATE BILL NO. 5
98TH GENERAL ASSEMBLY

0455H.13C

D. ADAM CRUMBLISS, Chief Clerk

AN ACT

To repeal sections 302.341 and 479.020, RSMo, and to enact in lieu thereof eight new sections relating to local government.

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

Section A. Sections 302.341 and 479.020, RSMo, are repealed and eight new sections
2 enacted in lieu thereof, to be known as sections 479.020, 479.155, 479.350, 479.353, 479.359,
3 479.362, 479.368, and 479.372, to read as follows:

479.020. 1. Any city, town or village, including those operating under a constitutional
2 or special charter, may, and cities with a population of four hundred thousand or more shall,
3 provide by ordinance or charter for the selection, tenure and compensation of a municipal judge
4 or judges consistent with the provisions of this chapter who shall have original jurisdiction to
5 hear and determine all violations against the ordinances of the municipality. The method of
6 selection of municipal judges shall be provided by charter or ordinance. Each municipal judge
7 shall be selected for a term of not less than two years as provided by charter or ordinance.

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

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

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

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

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

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

30 8. Within six months after selection for the position, each municipal judge who is not
31 licensed to practice law in this state shall satisfactorily complete the course of instruction for
32 municipal judges prescribed by the supreme court. The state courts administrator shall certify
33 to the supreme court the names of those judges who satisfactorily complete the prescribed
34 course. If a municipal judge fails to complete satisfactorily the prescribed course within six
35 months after the municipal judge's selection as municipal judge, the municipal judge's office
36 shall be deemed vacant and such person shall not thereafter be permitted to serve as a municipal
37 judge, nor shall any compensation thereafter be paid to such person for serving as municipal
38 judge.

39 **9. The conduct of municipal court judges shall conform to the rules governing the**
40 **judiciary set forth in supreme court rules.**

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

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

11 **3. The supreme court shall develop rules regarding conflict of interest for any**
12 **prosecutor, defense attorney, or judge that has a pending case before the municipal**
13 **division of any circuit court.**

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

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

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

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

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

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

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

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

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

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

479.359. 1. Every county, city, town, and village shall annually calculate the
2 **percentage of its annual general operating revenue received from fines, bond forfeitures,**
3 **and court costs for charges originally cited as minor traffic violations, whether the**
4 **violation was prosecuted in municipal court, associate circuit court, or circuit court,**

5 occurring within the county, city, town, or village. If the percentage is more than thirty
6 percent, the excess amount shall be sent to the director of the department of revenue. The
7 director of the department of revenue shall set forth by rule a procedure whereby excess
8 revenues as set forth in this section shall be sent to the department of revenue. The
9 department of revenue shall distribute these moneys annually to the schools of the county
10 in the same manner that proceeds of all fines collected for any breach of the penal laws of
11 this state are distributed.

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

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

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

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

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

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

35 (5) No sentence of incarceration is imposed unless an indigent defendant has
36 reasonable access to an attorney if required under chapter 600;

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

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

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

42 **(9) The municipal court makes use of alternative payment plans and community**
43 **service alternatives; and**

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

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

48 **(1) Annual general operating revenue as defined in section 479.350;**

49 **(2) The total revenues from fines, bond forfeitures, and court costs for minor traffic**
50 **violations occurring within the county, city, town, or village, including amended charges**
51 **from any minor traffic violations;**

52 **(3) The percent of annual general operating revenue from fines, bond forfeitures,**
53 **and court costs for minor traffic violations occurring within the county, city, town, or**
54 **village, including amended charges from any charged minor traffic violation, charged in**
55 **the municipal court of that county, city, town, or village; and**

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

59 **5. On or before December 31, 2015, the state auditor shall set forth by rule a**
60 **procedure for including the addendum information required by this section. The rule shall**
61 **also allow reasonable opportunity for demonstration of compliance without undue**
62 **burdensome calculations.**

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

6 **(1) Failed to file the addendum; or**

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

9

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

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

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

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

33 **5. If after a final determination is made that any county, city, town, or village failed**
34 **to make an accurate or timely report under section 105.145 or to send excess revenue to the**
35 **director of the department of revenue, any matters pending in the municipal court shall**
36 **be certified to the presiding judge of the circuit who shall assign the matters to other**
37 **divisions within the court. All fines, bond forfeitures, and court costs generated from any**
38 **matter reassigned to other divisions within the court shall be considered excess revenue**
39 **and the county, city, town, or village whose municipal court had original jurisdiction over**
40 **such matter shall not be entitled to such revenue.**

479.368. 1. Any county, city, town, or village failing to timely remit the required
2 **excess revenues after the time period provided by the notice by the auditor or any final**
3 **determination on excess revenue by the court, whichever is later, shall not receive from the**
4 **date the notice becomes final any amount of moneys to which the county, city, town, or**
5 **village would otherwise be entitled to receive from revenues from local sales tax as defined**
6 **in section 32.085 in the amount of excess revenues that the county, city, town, or village**
7 **failed to remit to the director of the department of revenue. Such general local sales tax**
8 **revenues shall be sent to the director of the department of revenue and shall be distributed**
9 **as provided in subsection 1 of section 479.359.**

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

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

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

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

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

25 **(4) Upon notification by the director of the department of revenue, the county**
26 **governing body in which the city, town, or village is located shall give notice of the election**
27 **for eight consecutive weeks prior to the election by publication in a newspaper of general**
28 **circulation published in the city, town, or village, or if there is no such newspaper in the**
29 **city, town, or village, then in the newspaper in the county published nearest the city, town,**
30 **or village; and**

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

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

 [302.341. 1. If a Missouri resident charged with a moving traffic
2 violation of this state or any county or municipality of this state fails to dispose
3 of the charges of which the resident is accused through authorized prepayment
4 of fine and court costs and fails to appear on the return date or at any subsequent
5 date to which the case has been continued, or without good cause fails to pay any
6 fine or court costs assessed against the resident for any such violation within the

7 period of time specified or in such installments as approved by the court or as
8 otherwise provided by law, any court having jurisdiction over the charges shall
9 within ten days of the failure to comply inform the defendant by ordinary mail at
10 the last address shown on the court records that the court will order the director
11 of revenue to suspend the defendant's driving privileges if the charges are not
12 disposed of and fully paid within thirty days from the date of mailing. Thereafter,
13 if the defendant fails to timely act to dispose of the charges and fully pay any
14 applicable fines and court costs, the court shall notify the director of revenue of
15 such failure and of the pending charges against the defendant. Upon receipt of
16 this notification, the director shall suspend the license of the driver, effective
17 immediately, and provide notice of the suspension to the driver at the last address
18 for the driver shown on the records of the department of revenue. Such
19 suspension shall remain in effect until the court with the subject pending charge
20 requests setting aside the noncompliance suspension pending final disposition,
21 or satisfactory evidence of disposition of pending charges and payment of fine
22 and court costs, if applicable, is furnished to the director by the individual. The
23 filing of financial responsibility with the bureau of safety responsibility,
24 department of revenue, shall not be required as a condition of reinstatement of a
25 driver's license suspended solely under the provisions of this section.

26 2. If any city, town, village, or county receives more than thirty percent
27 of its annual general operating revenue from fines and court costs for traffic
28 violations, including amended charges from any traffic violation, occurring
29 within the city, town, village, or county, all revenues from such violations in
30 excess of thirty percent of the annual general operating revenue of the city, town,
31 village, or county shall be sent to the director of the department of revenue and
32 shall be distributed annually to the schools of the county in the same manner that
33 proceeds of all penalties, forfeitures and fines collected for any breach of the
34 penal laws of the state are distributed. The director of the department of revenue
35 shall set forth by rule a procedure whereby excess revenues as set forth above
36 shall be sent to the department of revenue. If any city, town, village, or county
37 disputes a determination that it has received excess revenues required to be sent
38 to the department of revenue, such city, town, village, or county may submit to
39 an annual audit by the state auditor under the authority of Article IV, Section 13
40 of the Missouri Constitution. An accounting of the percent of annual general
41 operating revenue from fines and court costs for traffic violations, including
42 amended charges from any charged traffic violation, occurring within the city,
43 town, village, or county and charged in the municipal court of that city, town,
44 village, or county shall be included in the comprehensive annual financial report
45 submitted to the state auditor by the city, town, village, or county under section
46 105.145. Any city, town, village, or county which fails to make an accurate or
47 timely report, or to send excess revenues from such violations to the director of
48 the department of revenue by the date on which the report is due to the state
49 auditor shall suffer an immediate loss of jurisdiction of the municipal court of

50 said city, town, village, or county on all traffic-related charges until all
51 requirements of this section are satisfied. Any rule or portion of a rule, as that
52 term is defined in section 536.010, that is created under the authority delegated
53 in this section shall become effective only if it complies with and is subject to all
54 of the provisions of chapter 536 and, if applicable, section 536.028. This section
55 and chapter 536 are nonseverable and if any of the powers vested with the general
56 assembly under chapter 536 to review, to delay the effective date, or to
57 disapprove and annul a rule are subsequently held unconstitutional, then the grant
58 of rulemaking authority and any rule proposed or adopted after August 28, 2009,
59 shall be invalid and void.]

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