



February 9, 2010

## THE LEGISLATIVE SESSION PROGRESSES AMIDST A TOUGH ECONOMY

The Second Regular Session of the 95<sup>th</sup> Missouri General Assembly convened on January 6 in Jefferson City. MAC is monitoring approximately one-third of the over 1,000 bills or joint resolutions that have been filed to date due to their potential impact on county government. We will update you on many of these as the session progresses. It will be especially important to keep in close contact with your legislators, many of whom need your input on county issues. The topics in this bulletin are those that we are following more closely at the present time. Please contact the MAC office if you have questions regarding any pending legislation. MAC's website – [www.mocounties.com](http://www.mocounties.com) -- offers a number of governmental Internet links including Missouri House and Senate home pages. Bills, summaries, hearing schedules, committee rosters, etc, are all available to online users under [Missouri Government](#) and [Bill Search](#) in the left-hand menu. The legislative session ends on May 14.

**Appropriations** – Gov. Jay Nixon's proposed FY 2011 state budget included the following items of particular interest to county officials. The governor recommended the prisoner per diem rate for FY '11 stay the same as the FY '10 appropriation. Reimbursements to single-county circuits for juvenile court employees' salaries also stayed at the same level as the previous year, and the per diem reimbursement rate for juvenile facilities stayed the same at \$14 a day. Amidst the governor's budget cuts, the level that the state reimburses assessment maintenance costs was reduced from \$6 per parcel to \$4 per parcel. Overall, despite major cuts in assessment maintenance funding, most other appropriations regarding county operations remained at previous levels. Considering the challenging economic climate the Governor's proposed budget was better than we anticipated.

**Senate Bill 711** – Under current law, enacted under 2008's SB 711, assessors in charter counties and the City of St. Louis are required to provide taxpayers with a projected tax liability notice which must accompany a notice of increased assessed value. Assessors in all other counties will be subject to the same projected tax liability notice requirements effective Jan. 1, 2011. **SB 588 (Nodler)** repeals provisions of law which would require assessors, other than the assessors in charter counties and the City of St. Louis, to provide notices of projected tax liability with increased assessed value notices. **HB 1316 (Deeken)** modifies the provision and changes the required June 15 notice to allow assessors to provide a statement to taxpayers that the increase in the assessed valuation may result in an increase in property tax liability and a free estimate of the impact is available by contacting the county collector. The collector may use the current assessed valuation and the previous year's tax rate to calculate the estimate. The county commission may, by majority vote, opt to follow the current provisions set forth by SB 711 under Sec. 137.180, *RSMo*.

**Property Taxes** -- There are many other bills -- approximately 46 House bills and 12 Senate bills -- that address property tax collection. **SB 671 (Cunningham)** This act limits increases in assessed value of residential real property, not subject to transfers of ownership, during reassessment years to the lesser of the percentage increase in the consumer price index for the Midwest Region or two percent. Residential real property will only be subject to reassessment upon a transfer of ownership. Certain transfers between family members and transfers made by people age fifty-five and older will not trigger reassessment. Every county and the City of St. Louis is required to impose a split-rate property tax for each subclass of property.

**SJR 26 (Cunningham)** is a constitutional amendment that, if approved by voters, would limit increases in assessed value due to reassessment of real property to the lesser of the percentage increase in the consumer price index for the Midwest Region or two percent until a transfer of ownership occurs. Upon a transfer of ownership, such property would be reassessed at its value for the year in which the transfer occurs.

**HB 1717 (Schieffer)** requires counties to accept quarterly payments of real and personal property taxes if assessed valuation on a taxpayer's property increases by 5 or more percent.

**HB 1214 (Dusenberg)** exempts from real property taxes certain eligible taxpayers 75 years of age and older with certain income levels. **HB 1216 (Dusenberg)** exempts the residential property (their residence and adjacent real property not to exceed five acres) of an individual 65 years of age or older from increase in the tax rate and assessed valuation until the owner moves, sells the homestead property, or fails to notify the county assessor of his or her continued eligibility. Any revenue losses of political subdivisions, as determined by the State Auditor, will be reimbursed by the state.

**HB 1261 (Komo)** allows political subdivisions to replace any property taxes levied for funding the political subdivision with a sales tax.

**HJR 75 (Ervin)** proposes a constitutional amendment exempting from taxation all business personal property.

**Assessment Funding -- HB 1507 (Sutherland)** requires the total sum of state reimbursements and collections deposited into a county assessment fund to equal 7 dollars per parcel or an additional percentage of all property tax collections will be deducted to ensure that the 7 dollar per parcel is achieved.

**Local Government Omnibus Bill -- SB 580 (Griesheimer)** is this year's local government omnibus bill. Among its provisions, it establishes the following:

(1) allows all counties of the third classification to establish a jail or holding facility outside of the county seat. This is identical to the provision in **HB 1707 (Schaaf)**.

(2) allows counties to amend the annual budget during a fiscal year to reflect any increase or decrease in revenues that were not estimated or anticipated when the original budget was adopted. Currently, the county may amend the budget during a fiscal year when the county receives additional funds which could not be estimated when the budget was adopted. This is identical to the provision in **HB 1793 (Molendorp)**.

(3) modifies provisions regarding competitive bids. Currently under Sec. 50.660, *RSMo*, a county is not required to obtain bids on purchases of \$4,500 or less. This section raises the limit to \$5,000. Also, this section requires first class counties to advertise contracts and purchases for bid on its website for at least thirty days. The section also requires the county commission of any county of the first classification to post notice of a "single feasible source" purchase that does not require bidding on its website for at least 30 days. In such counties, any prospective bidder or offer or may file a written challenge, prior to approval of the contract by the commission, that such supply has a single feasible source. Upon receiving the challenge, the commission shall take testimony on the subject at a public meeting and vote on whether to proceed with the purchase or accept bids for such supply. Under Sec. 50.783, *RSMo*, counties may waive competitive bidding when the county commission determines that there is only one feasible source for the supply. This section requires counties to post notice on such proposed purchases of over \$6,000 and advertise the commission's intent to make such purchase in the newspaper at least ten days in advance. Currently, the commission must post notice for such proposed purchases of at least \$3,000 and also advertise in the newspaper for such purchases of at least \$5,000. This is identical to the provision in **HB 1589 (Hobbs)**.

(4) changes several provisions regarding property tax collection. It specifies that in counties adopting a charter form of government after Jan. 1, 2008, is the county collector will receive a 7 percent fee for the collection of delinquent and back taxes rather than the 2 percent or 3 percent fee that all other charter county collectors receive (currently, this only applies to Jefferson County); allows certain first and second classification counties to collect property taxes using electronic records and disbursements; specifies that a county adopting a charter form of government after Jan. 1, 2008, is required to have a tax maintenance fund (currently, this only applies to Jefferson County); specifies that the county collector-treasurer will assume all duties, compensation, fee schedules, and requirements of the collector-treasurer if a third or fourth class county abolishes its township form of government or a county collector becomes a collector-treasurer; requires county auditors in first and second class counties to have access to all records for county-issued licenses and to receive a monthly listing of the licenses issued with the specified related information from each county office issuing the licenses (currently, these county auditors are required to countersign all county-issued licenses and keep a record of them); and requires county collectors in first and second class counties to file with the county clerk and auditor by the fifteenth day of each month a detailed statement of all taxes and license fees collected during the preceding month and to disburse those funds, less commissions, to the appropriate taxing entities and the Dept. of Revenue. Taxing authorities are required to request notification of current taxes paid under protest by Feb. 1, and county collectors must provide information by March 1. These provisions are identical to those in **SB 736 (McKenna)** and **HB 1424 (Franz)**.

(5) the auditor of any county with a charter form of government to annually take an inventory of county property with an original value of \$2500 or more, rather than \$250. This is identical to the provision in **SB 628 (Dempsy)**.

(6) establishes that the county counselor of Boone County shall receive \$15,000 for duties relating to mental health and mental health facilities and an additional amount not to exceed \$15,000 for investigative and clerical personnel assisting with such duties. The sums shall be paid out of the state treasury from funds appropriated for such purposes and received in the form of a reimbursement to county general revenue funds.

(7) requires requests for records filed by the recorder of deeds dated after Dec. 31, 1969 be made to the office in which the record was originally filed.

(8) allows Boone County to adopt, by order or ordinance, regulations to control the minimum standards of occupancy for residential units rented or leased and also to develop a program for licensing and inspecting the units. The county may recover the costs to administer the program through establishing reasonable fees. This is identical to provisions in **SB 830 (Schaefer)**, **1303 (Schaaf)**, and **HB 1592 (Hobbs)**.

(9) This section allows counties of the first classification to establish curfews for persons under the age of 17. Any minor who violates such curfew is guilty of a class C misdemeanor. If the minor's parent or guardian has knowledge of such violation, he or she is also guilty of a class C misdemeanor.

(10) This section allows Andrews and Buchanan counties to enact nuisance abatement ordinances regarding the condition of real property. This section allows the counties covered by the statute to adopt nuisance abatement ordinances involving land with tires or storm water runoff conditions resulting in damage to buildings. This is identical to provisions in **HB 1591 (Hobbs)** and **HB 1759 (Rucker)**.

(11) Currently, certain county taxes, upon voter approval, are levied for a specific period of time and must be extended by another voter approval. This section authorizes counties to use ballot language which indicates that the tax is an extension of an existing tax and not a new tax. This is identical to provisions in **SB 827 (Schaefer)** and **HB 1594 (Hobbs)**.

(12) These sections also allow the City of St. Joseph and Buchanan County to contract with one another to share transient guest tax revenues for the purpose of promoting tourism and the construction, maintenance, and improvement of convention center and recreational facilities. This is similar to the provision in **SB 644 (Shields)**.

(13) This section allows real property owners in Caldwell, Clinton, Daviess, and DeKalb counties to seek voter approval for the creation of exhibition center and recreational facility districts. If such a district is created, it may seek voter approval for the imposition of a one-quarter of one percent sales tax, for a period not to exceed twenty-five years, to fund the district. This is identical to the provision in **SB 700 (Lager)**.

(14) establishes the Port Improvement District Act, guidelines for contents of a petition to create a district, notice requirements the port authority board must follow prior to submission of a petition to circuit court, procedures for the circuit court hearing, guidelines for the circuit clerk regarding notification of the public concerning the hearing, procedures for terminating a port improvement district, election procedures a port authority must take to levy a real property tax or a sales/use tax, statute of limitations for challenging creation of a district or the validity of taxes, requirements for districts' annual reports, and competitive bid limits. This is similar to the provision in **SB 578 (Shields)**.

(15) allows the governing body of a city, town, village or county to submit a proposal to the voters of such city, town village or county allowing the municipality to impose a property tax to fund cemetery maintenance. The tax authorized under this section shall not exceed one fourth of one cent per one hundred dollars assessed valuation and shall not become effective until approved by the voters of the city, town village or county. This is similar to the provision in **SB 743 (Shoemyer)**.

(16) allows one change of hearing officer for each party to an appeal heard by the State Tax Commission. A party to an appeal need not show cause to receive a change of hearing officer, but must file a written application to disqualify the assigned hearing officer within thirty days of such assignment. Assignment of a hearing officer will be deemed to have occurred when the first scheduling order is issued by the commission and signed by the hearing officer assigned, unless otherwise stated in the order. This is identical to the provision in **SB 686 (Rupp)**.

(17) These sections change the laws regarding the sale of real property for the collection of delinquent taxes to include the following; these provisions are identical to those in **HB 1420 (Franz)**:

- the collector is required to send up to three notices to the publicly recorded owner of record of the real property prior to the publishing of a tax sale. The first notice is to be by first class mail. If the assessed valuation of the property is greater than \$1,000, a second notice must be sent by certified mail. A third notice is required to the owner of record and the occupant of the real property if the second notice is returned unsigned.
- If the county collector determines that an adequate legal description of tax sale property cannot be obtained from documents available through the recorder of deeds, the collector may commission a professional land surveyor to prepare an adequate legal description of the property. Costs of the survey will be taxed as part of the sale costs. The assessed valuation of property that can be listed without a legal description or the name of the record owner is increased from \$500 to \$1,000.
- The certificate of purchase will be conveyed to an agent if the purchaser is a nonresident, and the agent must convey the property to the nonresident. These sections require that the highest bid at a sale on the third successive year must be at least equal to the sum of the delinquent taxes, interest, penalties, and costs as it is required when it was initially offered and at the second successive year it was offered. After the third offering, the collector's deed or trustee's deed will have priority over all the other liens or encumbrances on the property sold except for real property taxes or federal liens. The purchaser is required to pay a fee to the collector to record the certificate of purchase in the office of the county recorder.
- If the delinquent land tax sale results in an amount greater than the amount of debt, taxes, interest, and costs, the excess proceeds must be held in trust in the county treasury for three years for the publicly

recorded owner or owners of the property sold or their legal representatives. After three years, any amount not called for will be deposited into the county's school fund.

- The redemption periods for the owner of record to redeem tax sale property are revised. The owner must reimburse the purchaser for all costs of sale including the cost for recording the certificate of purchase, the fee to record the release of the certificate, the cost of the title search and the required certified mail notifications, interest at the rate specified on the certificate, and any taxes paid by the purchaser plus 8 percent interest.
- Within 120 days prior to receiving a collector's deed, a tax sale purchaser must obtain a title search report from a licensed attorney or title company detailing the ownership and encumbrances on the property. Requirements for service of the 90 days' notice of the right of redemption that a tax sale purchaser must send to the owner of record and other persons who hold publicly recorded claims on the property are revised. The contents of the affidavit that a tax sale purchaser must provide to the collector before receiving a collector's deed to the property are revised to include the required title search and the 90 days' notice service requirements.

(18) requires the state, if it would otherwise be liable for costs, to reimburse counties for housing prisoners on its behalf, regardless of the final disposition of the case.

(19) allows Chariton and Carroll counties to seek voter approval to impose a tax of up to \$1 per acre on agricultural and horticultural property to be used to purchase road rock.

(20) requires notice of a lien on property, recorded with the recorder of deeds when the owner cannot be located, be accompanied by the applicable fee required.

**County Budget Law** – HB 1793 (Molendorp) authorizes a county to amend its budget to reflect any increases or decreases in revenues that could not have been estimated or anticipated when the budget was adopted.

**Fair Tax Amendment** -- SJR 29 (Purgason), SJR 37 (Ridgeway), HJR 56 (Emery), and HJR 71 (Koenig) propose a constitutional amendment replacing the state individual and corporate income tax, the corporate and bank franchise tax and state sales and use tax with a tax on the sale, use, or consumption of new tangible personal property and taxable services equal to five and eleven-one hundredths percent beginning January 1, 2012. Component parts or ingredients of a new tangible personal property to be sold at retail, federal government purchases, and business-to-business transactions including agriculture will be exempt from the new tax while all other exemptions and tax credits will be eliminated. The enactment of any new exemptions will require a two-thirds affirmative vote by the General Assembly and approval by the governor. The conservation sales tax, the soil and parks sales tax, and local sales taxes will be recalculated to produce substantially the same amount of revenue. Each qualified family will receive a sales tax rebate based on the federal poverty level guidelines to offset the sales tax on basic necessities. The Tax Adjustment Commission is created to recommend a one-time adjustment to the new sales tax rate to ensure revenue-neutrality. A rate adjustment may only be recommended to the General Assembly upon a unanimous vote of the Commission. A concurrent resolution, offered in the house of representatives, must be adopted by both houses and sent to the Governor in order to make the one-time rate adjustment recommended by the Commission.

**Motor Fuel Tax Holiday** -- HB 1783 (Nolte) authorizes a motor fuel tax holiday for gasoline and diesel fuel used in a personal vehicle for a four-day period during the Memorial Day and Labor Day weekend.

**Firearms Sales Tax Holiday** -- HB 1387 (Gatschenberger) establishes the Firearms and Ammunition Sales Tax Holiday. Beginning Jan. 1, 2010, an annual state sales and use tax exemption will be issued purchases of all firearms ammunition during three days starting the third Friday in October. Retailers must offer a sales tax refund in lieu of the sales tax holiday when less than 2 percent of their sales qualify for the holiday. Any political subdivision may adopt an order or ordinance to opt into the holiday.

There are many other bills pending that authorize a variety of new sales tax exemptions.

**Sunshine Law** – HB 1445 (Jones, Timothy) changes the Sunshine Law to (1) require information to be made available in an electronic format if a public body keeps records in an electronic format; (2) increase the maximum penalty for a purposeful violation of Secs. 610.010-610.026, *RSMo*, from up to \$5,000 to up to \$8,000 and the penalty for a knowingly violation from *up to* \$1,000 to \$1,000; (3) require the governing body of any city, county, town, village or any entity created by these political subdivisions to hold a public meeting and to allow public comment five business days prior to voting on an issue involving fee or tax increases, eminent domain, zoning, transportation development districts, capital improvement districts, commercial improvement districts, or tax increment financing (4) specify that in any legal proceeding, there will be a presumption that a meeting, record, or vote is open to the public -- the burden to prove that it should be closed is on the public governmental body; and (5) require any elected or appointed official, or their designated public information coordinator, who is a member of a public governmental body subject to the Sunshine Law to complete a training course offered by the Office of the Attorney General (at no cost) regarding the responsibilities of the body and its members on the Sunshine Law.

**HB 1299 (Lampe)** changes the Sunshine Law to (1) create a presumption in law that any meeting, record, or vote in any legal proceeding is open to the public with the burden on the governmental body or member of the body to prove that it should be closed to the public, (2) change the standard for when a governmental body or a member of the body violates a provision of the Sunshine Law from who has knowingly violated to who has violated a provision of the law, and (3) increase, from up to \$1,000 to up to \$10,000, the civil penalty for a violation of the provisions of the law.

**HB 1769 (Bivins)** requires all public governmental bodies to make and retain a verbatim audio recording of any closed meeting.

**Enhanced 9-1-1 – HB 1574 (Sander)** requires prepaid wireless service suppliers to collect a 75-cent monthly fee from its customers for 9-1-1 emergency communications services.

**Elections** – There are numerous bills in again this year that would amend current election law. **HB 1403 (Cox)** establishes the Andrew Jackson Vote Restoration Act which requires certain elections to be held even if the number of candidates filing for a position is equal to the number of positions available.

**Photo ID -- HJR 64 (Cox)** proposes a constitutional amendment authorizing the General Assembly to require a person to provide a photo identification in order to vote in elections.

**Early Voting – SB 651 (Days), HB 1470 (Frame), and HB 1547 (Corcoran)** establish a system that allows voters to cast advance ballots.

**Initiative Petitions –HB 1441 (Kuessner)** change the laws regarding the circulation of petitions to (1) require a petition circulator to be a United States citizen and a Missouri resident, and (2) require the entity to register with the Secretary of State at least one year prior to circulating any petition.

**SB 796 (Bray)** changes the laws regarding the circulation of petitions to (1) require petition circulators not be paid based on the number of signatures they obtain; persons who have broken laws that would constitute forgery in this state shall not qualify as petition circulators, (2) specify that persons who knowingly misrepresent themselves on petitions are guilty of a class one election offense, (3) delay the delivery of the petition to the State Auditor until after the petitioner successfully collects between 1,000-2,000 sponsoring signatures, (4) shorten the timeframe from 30 days to 15 days for the Secretary of State to send notice to the person submitting a petition sheet for approval after submission, and (5) states that if the form of petition is approved, the petitioner has 45 days from being notified of approval to submit between 1,000-2,000 sponsoring signatures in support of the initiative or the petition shall be rejected. Within 5 days of receipt, the Secretary of State may send copies of the signature pages to election authorities for verification.

**HJR 63 (Parson)** proposes an amendment increasing the percentage of required voter signatures in each of two-thirds of the Congressional districts before a petition can be placed on the ballot. **HJR 78 (Smith)** proposes an amendment requiring at least 60 percent of voters to approve amendments to the Missouri Constitution instead of the current simple majority requirement.

Secretary of State Robin Carnahan has certified 29 initiative petitions to date for circulation. Issues covered include eminent domain, repeal of the non-partisan court plan, abortion, dog breeding, and a variety of tax proposals and restrictions.

**County Classification Changes – SB 605 (Mayer), HB 1806 (Franz) and HB 1562 (Kingery)** increase the assessed valuation a county must maintain in order to move into a higher classification. SB 605 and HB 1806 increases the minimum assessed valuation threshold from \$600 million to \$1 billion for first class counties and from \$450 million to \$750 million for second class counties. All counties with an assessed valuation of less than \$750 million will be third class counties. HB 1562 does the same, except it places the first class county threshold at \$900 million.

**HB 1460 (Hodges)** establishes that when any county changes classification, this bill prohibits the salary established for each county official from being reduced until the official at the time of change leaves office.

**Public Funds For Lobbying -- HB 1872 (Schoeller)** provides that any state agency, political subdivision, or private entity that receives any funds appropriated by the state or any amount collected from any local tax authorized by statute is prohibited from using public funds for lobbying purposes. No state agency or political subdivision shall use any public resources to pay any membership dues on behalf of the agency or political subdivision or any officer or employee of the agency or political subdivision to any organization or association if such dues directly or indirectly pay all or part of the salary of any person required to register as a lobbyist under this chapter in an attempt to influence legislation. Any person who accepts public funds as compensation for lobbying in violation of this section may be prohibited from registering as a legislative lobbyist for a period not to exceed two years.

**Cadastral Mapping** -- SB 621 (Lager) and HB 1830 (Sutherland) establishes standards and provisions for digital cadastral mapping. The Office of the State Land Surveyor established within the department of natural resources shall promulgate rules and regulations establishing minimum standards for digital cadastral parcel mapping.

**Commissioners' Salaries** – HB 1385 (Nolte) removes the requirement that presiding county commissioners be paid \$2,000 more than the associate commissioners.

**Inmate Work And Service Program** – HB 1422 (Franz) allows counties to establish an inmate work and service program, includes such program in county law enforcement-related expenses, and allows an assessment of up to \$10 on certain offenses.

**Library District Sales Tax** -- SB 713 (Mayer) and HB 1394 (Kirkton) authorizes public library districts to seek voter approval for a sales tax of not more than one half of one cent to fund the operation, and maintenance of libraries within the boundaries of such library district.

**County Depository** -- SB 771 (Scott) and HB 1545 (Wilson) specifies that each bid from a bank to be the depository for the county must be accompanied by a certified check for an amount equal to a certain percentage of the county general revenue, rather than all county revenue. Such check serves as guaranty of good faith that the required security will be provided. This act also changes outdated references to "ex officio treasurer" to reflect the current term, "collector treasurer".

**Recorders' Fees** -- HB 1267 (Meiners) increases from \$3 to \$10 the fee charged by the county recorder of deeds for certain recorded documents pertaining to real property.

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Mark your calendars for the upcoming dates!

NACo Legislative Conference  
March 6-10  
Marriott Wardman Park Hotel  
Washington, DC

MAC Legislative Conference  
April 12  
Capitol Plaza Hotel  
Jefferson City, MO

NACo Annual Conference  
July 16-20  
Washoe County, NV