

Missouri Constitution

Article VI
LOCAL GOVERNMENT
August 28, 2015

Recognition of existing counties.

Section 1. The existing counties are hereby recognized as legal subdivisions of the state.

Source: Const. of 1875, Art. IX, § 1.

Continuation of existing organization of counties.

Section 2. The existing organization of counties shall continue until further provisions applicable thereto shall be provided, as authorized in this constitution.

Consolidation of counties--allocation of liabilities.

Section 3. Two or more counties may be consolidated by vote of a majority of the qualified electors voting thereon in each county affected, but no such vote shall be taken more than once in five years. The former areas shall be held responsible for their respective outstanding liabilities as provided by law.

Division or diminution of counties.

Section 4. No county shall be divided or have any portion stricken therefrom except by vote of a majority of the qualified electors voting thereon in each county affected.

Source: Const. of 1875, Art. IX, §§ 3, 4.

Dissolution of counties--annexation.

Section 5. A county may be dissolved by vote of two-thirds of the qualified electors of the county voting thereon, and when so dissolved all or portions thereof may be annexed to the adjoining county or counties as provided by law.

Removal of county seats.

Section 6. No county seat shall be removed except by vote of two-thirds of the qualified electors of the county voting thereon at a general election, but no such vote shall be taken more than once in five years.

Source: Const. of 1875, Art. IX, § 2.

County courts--number of members--powers and duties.

Section 7. In each county not framing and adopting its own charter or adopting an alternative form of county government, there shall be elected a county court of three members which shall manage all county business as prescribed by law, and keep an accurate record of its proceedings. The voters of any county may reduce the number of members to one or two as provided by law.

Source: Const. of 1875, Art. VI, § 36.

Classification of counties--revisions to article VI passed by the 88th general assembly to be retroactive.

Section 8. Provision shall be made by general laws for the organization and classification of counties except as provided in section 18(a) or section 18(m) of this article or otherwise in this constitution. The number of classes shall not exceed four, and the organization and powers of each class shall be defined by general laws so that all counties within the same class shall possess the same powers and be subject to the same restrictions. The revisions to this article submitted by the first regular session of the eighty-eighth general assembly are intended to be applied retroactively and no law adopted by the general assembly or ordinance or order adopted by the governing body of a county shall be declared unconstitutional if such law, ordinance or order would have been constitutional had this section, as amended, been in effect at the time the law was passed, unless the law is declared unconstitutional pursuant to a different provision of this constitution.

(Amended April 4, 1995)

(1952) Land Tax Collection Law is not a local or special law prohibited by § 40, Art. III of the Constitution nor does it violate § 8, Art. VI relating to classification of counties. *Collector v. Parcels of Land*, 362 Mo. 1054, 247 S.W.2d 83.

(1962) Provision, added to § 48.030 by House Bill 297 in 1959, that no county of the fourth class should move to the third class until approved by majority of the electors voting on the question, was in violation of Art. VI, § 8, in that it created an additional class of counties. *Chaffin v. County of Christian (Mo.)*, 359 S.W.2d 730.

(1980) Such portions of statute providing procedure for exemption from "Sunday Sales Law" which treated first class counties by "area" were unconstitutional in violation of Art. VI, § 8, in that such portions treated first class county not included in an "area" and not covered by other special legislation allowing exemption from "Sunday Sales Law." *Gramex Corp. v. Von Romer (Mo.)*, 603 S.W.2d 521.

Alternative forms of county government.

Section 9. Alternative forms of county government for the counties of any particular class and the method of adoption thereof may be provided by law.

Terms of city and county offices.

Section 10. The terms of city or county offices shall not exceed four years.

Source: Const. of 1875, Art. IX, § 14.

Compensation of county officers--increases in compensation not to require additional services--statement of fees and salaries.

Section 11. 1. Except in counties which frame, adopt and amend a charter for their own government, the compensation of all county officers shall either be prescribed by law or be established by each county pursuant to law adopted by the general assembly. A law which would authorize an increase in the compensation of county officers shall not be construed as requiring a new activity or service or an increase in the level of any activity or service within the meaning of this constitution. Every such officer shall file a sworn statement in detail, of fees collected and salaries paid to his necessary deputies or assistants, as provided by law.

2. Upon approval of this amendment by the voters of Missouri the compensation of county officials, or their duly appointed successor, elected at the general election in 1984 or 1986 may be increased during that term in accordance with any law adopted by the general assembly or, in counties which have adopted a charter for their own government, in accordance with such charter, notwithstanding the provisions of section 13 of article VII of the Constitution of Missouri.

Source: Const. of 1875, Art. IX §§ 12, 13.

(Amended August 5, 1986)

Officers compensated only by salaries in certain counties.

Section 12. All public officers in the city of St. Louis and all state and county officers in counties having 100,000 or more inhabitants, excepting public administrators and notaries public, shall be compensated for their services by salaries only.

(1962) Fees for the sale of licenses issued by the state Conservation Commission by a county clerk held to be received in his individual capacity and therefore was not in violation of the constitutional provision which requires officers in counties of one hundred thousand to be compensated only by salaries. *Walsh v. County of St. Louis (Mo.)*, 353 S.W.2d 779.

Compensation of officers in criminal matters--fees.

Section 13. All state and county officers, except constables and justices of the peace, charged with the investigation, arrest, prosecution, custody, care, feeding, commitment, or transportation of persons accused of or convicted of a criminal offense shall be compensated for their official services only by salaries, and any fees and charges collected by any such officers in such cases shall be paid into the general revenue fund entitled to receive the same, as provided by law. Any fees earned by any such officers in civil matters may be retained by them as provided by law.

Joint participation by counties in common enterprises.

Section 14. By vote of a majority of the qualified electors voting thereon in each county affected, any contiguous counties, not exceeding ten, may join in performing any common function or service, including the purchase, construction and maintenance of hospitals, almshouses, road machinery and any other county property, and by separate vote may join in the common employment of any county officer or employee common to each of the counties. The county courts shall administer the delegated powers and allocate the costs among the counties. Any county may withdraw from such joint participation by vote of a majority of its qualified electors voting thereon.

Classification of cities and towns--uniform laws--change from special to general law.

Section 15. The general assembly shall provide by general laws for the organization and classification of cities and towns. The number of such classes shall not exceed four; and the powers of each class shall be defined by general laws so that all such municipal corporations of the same class shall possess the same powers and be subject to the same restrictions. The general assembly shall also make provisions, by general law, whereby any city, town or village, existing by virtue of any special or local law, may elect to become subject to, and be governed by, the general laws relating to such corporations.

Source: Const. of 1875, Art. IX, § 7.

Cooperation by local governments with other governmental units.

Section 16. Any municipality or political subdivision of this state may contract and cooperate with other municipalities or political subdivisions thereof, or with other states or their municipalities or political subdivisions, or with the United States, for the planning, development, construction, acquisition or operation of any public improvement or facility, or for a common service, in the manner provided by law.

(1964) City had authority to enter into contract with school district for erection of library by school district on land acquired by city by condemnation proceedings for purpose of parkway. School District of Kansas City v. Kansas City (Mo.), 382 S.W.2d 688.

(1967) Cities' cooperative sewer agreement which conditioned obligation of a fourth class city to build facilities on its passage of a bond issue did not, until the passage of the bond issue, create an indebtedness of the city, within constitutional debt limitation, and was not ultra vires or void ab initio. The passage of the bond issue obligated the city to perform the construction and established corresponding obligation of the other contracting city to perform its duties conditioned on the passage of the bond issue. Kansas City v. City of Raytown (Mo.), 421 S.W.2d 504.

Consolidation and separation as between municipalities and other political subdivisions.

Section 17. The government of any city, town or village not in a county framing, adopting and amending a charter for its own government, may be consolidated or separated, in whole or in part, with or from that of the county or other political subdivision in which such city, town or village is situated, as provided by law.

SPECIAL CHARTERS

County government by special charter--limitations--counties adopting charter or constitutional form shall be a separate class of counties from classification system.

Section 18(a). Any county having more than 85,000 inhabitants, according to the census of the United States, may frame and adopt and amend a charter for its own government as provided in this article, and upon such adoption shall be a body corporate and politic. In addition and as an alternative to the foregoing, any county which attains first class county status and maintains such status for at least two years shall be authorized to frame and adopt and amend a charter for its own government as provided by this article, and upon such adoption by a vote of the qualified electors of such county shall be a body corporate and politic. Counties which adopt or which have adopted a charter or constitutional form of government shall be a separate class of counties outside of the classification system established under section 8 of this article.

(Amended August 8, 1978)

(Amended November 8, 1994)

(Amended April 4, 1995)

(1954) Action for injunction and to compel county supervisor and county council of St. Louis County to cancel special permit to erect radio tower held not suit against county and, therefore, not within jurisdiction of supreme court. *State ex rel. Town of Olivette v. American Tel. & Tel. Co. (Mo.)*, 273 S.W.2d 286.

(1961) County council of St. Louis County had power to enact ordinance requiring addition of flourides to water supply to be used in all areas of the county. *Readey v. St. Louis County Water Co. (Mo.)*, 352 S.W.2d 622.

(1962) Injunction issued to prevent city of fourth class from constructing and maintaining sewage treatment facilities outside city limits in area designated by zoning ordinance of constitutional charter county as residential. *St. Louis County v. City of Manchester (Mo.)*, 360 S.W.2d 638.

Provisions required in county charters--exception.

Section 18(b). The charter shall provide for its amendment, for the form of the county government, the number, kinds, manner of selection, terms of office and salaries of the county officers, and for the exercise of all powers and duties of counties and county officers prescribed by the constitution and laws of the state; however, such charter shall, except for the charter of any county with a charter form of government and with more than six hundred thousand but fewer than seven hundred thousand inhabitants, require the assessor of the county to be an elected officer.

(Amended August 8, 1978)

(Amended November 8, 1994)

(Amended April 4, 1995)

(Amended November 2, 2010)

(1955) Sheriff held county officer within meaning of § 18, Art. VI of the Constitution so that county charter could transfer his policing and law enforcement functions to county police department. *State on Inf. Dalton ex rel. Shepley v. Gamble*, 365 Mo. 215, 280 S.W.2d 656.

(1955) Ballot submitting amendment to charter which contained summary statement as to legal effect of amendment creating county police department held sufficient. *State on Inf. Dalton ex rel. Shepley v. Gamble*, 365 Mo. 215, 280 S.W.2d 656.

(1956) City of St. Louis had no authority under § 18, Art. VI to include in a proposed new or revised charter provisions relating to number, kinds, manner of selection, terms of office and salaries of county officers. *Stemmler v. Einstein (Mo.)*, 297 S.W.2d 467.

(1957) Ordinance of constitutional charter county of the first class which authorized the execution of contracts by the assessor for a revaluation study of property in the county held not to conflict with § 137.230, RSMo, and within constitutional powers of county. *Hellman v. St. Louis County (Mo.)*, 302 S.W.2d 911.

(1957) Provision requiring charter to contain provisions for exercise of the powers of county officers carries with it an implied grant of such powers as are reasonably necessary to the exercise of the powers granted and are not contrary to public policy of the state. *Hellman v. St. Louis County (Mo.)*, 302 S.W.2d 911.

(1960) St. Louis County ordinance providing for procedure on filing county referendum petitions which made circuit court judgment as to sufficiency of petitions unappealable, held invalid as conflicting with § 512.020. *Carson v. Oxenhandler (A.)*, 334 S.W.2d 394.

(1968) The constitution does not give a first class charter county the right to submit proposals as to the manner of selection of circuit, probate, and magistrate judges as the selection of such judges is not a power which is incident to home rule county government. *State v. Kirkpatrick (Mo.)*, 426 S.W.2d 72.

Provisions authorized in county charters--participation by county in government of other local units.

Section 18(c). The charter may provide for the vesting and exercise of legislative power pertaining to any and all services and functions of any municipality or political subdivision, except school districts, in the part of the county outside incorporated cities; and it may provide, or authorize its governing body to provide, the terms upon which the county may contract with any municipality or political subdivision in the county and perform any of the services and functions of any such municipality or political subdivision.

The charter may provide for the vesting and exercise of legislative power pertaining to any and all services and functions of any municipality or political subdivision, except school districts, throughout the entire county within as well as outside incorporated municipalities; any such charter provision shall set forth the limits within which the municipalities may exercise the same power collaterally and coextensively. When such a proposition is submitted to the voters of the county the ballot shall contain a clear definition of the power, function or service to be performed and the method by which it will be financed.

(Amended November 3, 1970)

(1973) St. Louis county charter provisions as to appointment of condemnation appraisers held to supersede provisions of general condemnation statutes. *State ex rel. St. Louis County v. Campbell (A.)*, 498 S.W.2d 833.

(2014) Charter county ordinance requiring residential property foreclosure mediation program did not involve a distinctly local concern and was beyond county's designated police power. *Mo. Bankers' Association v. St. Louis County*, 448 S.W.3d 267 (Mo.banc).

Taxation under county charters.

Section 18(d). The county shall only impose such taxes as it is authorized to impose by the constitution or by law.

Laws affecting charter counties--limitations.

Section 18(e). Laws shall be enacted providing for free and open elections in such counties, and laws may be enacted providing the number and salaries of the judicial officers therein as provided by this constitution and by law, but no law shall provide for any other office or employee of the county or fix the salary of any of its officers or employees.

Petitions for charter commissions--signatures required-- procedure.

Section 18(f). Whenever a petition for a commission, signed by qualified electors of the county numbering ten percent of the total vote for governor in the county at the last preceding general election, is filed with the county commission or other governing body, the officer or body canvassing election returns shall forthwith finally determine the sufficiency thereof and certify the result to the governing body, which shall give immediate written notice of the petition to the circuit judges of the county.

(Amended November 8, 1994)

Charter commission--appointment, number and qualification of members.

Section 18(g). Within sixty days thereafter said judges shall appoint a commission to frame the charter, consisting of fourteen qualified electors who shall serve without pay and be equally divided between the two political parties casting the greater number of votes for governor at the last preceding general election.

(Amended November 8, 1994)

Adoption of charter--special election--manner of submission.

Section 18(h). The charter framed by the commission shall take effect on the day fixed therein and shall supersede any existing charter or government, if approved by vote of a majority of the qualified electors of the county voting thereon at a special election held on a day fixed by the commission and not less than thirty days after the completion of the charter nor more than one year from the day of the selection of the commission. The commission may submit for separate vote any parts of the charter, or any alternative sections or articles, and the alternative sections or articles receiving the larger affirmative vote shall prevail if a charter is adopted.

Notice of special charter election.

Section 18(i). The body canvassing election returns shall publish notice of the election at least once a week for at least three weeks in at least two newspapers of general circulation in the county, the last publication to be not more than three nor less than two weeks next preceding the election.

Certificates of adoption of charter--recordation and deposit -- judicial notice.

Section 18(j). Duplicate certificates shall be made, setting forth the charter adopted and its ratification, signed by the officer or members of the body canvassing election returns; one of such certified copies shall be deposited in the office of the secretary of state and the other, after being

recorded in the records of the county, shall be deposited among the archives of the county and all courts shall take judicial notice thereof. This section shall also apply to any amendment to the charter.

Amendments of county charters.

Section 18(k). All amendments to such charter approved by the voters shall become a part of the charter at the time and under the conditions fixed in the amendment.

CROSS REFERENCE:

Acquisition by county of plants for destruction of waste, RSMo 49.205.

Limitation on resubmission after defeat of charter.

Section 18(l). No charter shall be submitted to the electors within the two years next following the election at which a charter was defeated.

County of the first classification may provide a county constitution --content, procedure, limitations.

Section 18(m). Any county of the first classification may adopt an alternative form of government to that provided in sections 18(a)-(g) of this article and frame a county constitution as provided in sections 18(m)-(r) of this article. The constitution may provide for the vesting of any and all powers the general assembly has the authority to confer, provided such powers are not limited or denied by laws of this state, except those powers to regulate and provide for free and open elections. A county approving the alternative form of government and adopting a county constitution in the manner prescribed by sections 18(m)-(r) of this article shall only impose such taxes as it is authorized by the constitution and law to impose. The county commission of such a county may authorize the submission of the question by placing it on the ballot on any election day established by law. The circuit judges of the circuit where such county is located shall establish a county constitution commission if the qualified voters of the county approve the question.

(Adopted November 8, 1994)

Circuit judges may appoint constitution commission, members, qualifications.

Section 18(n). If the question is approved, the circuit judges of the circuit where such county is located shall, within sixty days after certification of the election results by the election authority, appoint a commission to frame the county constitution, consisting of fourteen residents of the county who shall serve without pay and be equally divided between the two political parties casting the greater number of votes for governor at the last preceding gubernatorial election.

(Adopted November 8, 1994)

County constitution, effective when--submission to electorate for separate vote on any part or alternative sections.

Section 18(o). The county constitution framed by the commission shall take effect on the day fixed therein and shall supersede any existing charter, county constitution or government, if approved by the majority of the qualified voters of the county voting thereon. The county constitution shall be submitted by the county constitution commission to the election authority of the county not later than thirty days after the completion of the county constitution and not more than one year from the date of the selection of the county constitution commission by the circuit court. The commission may submit for separate vote any part of the county constitution, or any alternative sections or articles, and the alternative sections or articles receiving the larger affirmative vote shall prevail if a constitution is adopted.

(Adopted November 8, 1994)

Publication requirements for text of constitution--election to adopt procedure.

Section 18(p). In addition to notices required under the election laws of the state, the election authority shall publish the full text of the county constitution in each newspaper of general circulation in the county at least once a week for at least three weeks, the last publication to be not more than three nor less than two weeks immediately preceding the election. Except as otherwise provided herein, the election shall be conducted under Missouri election law.

(Adopted November 8, 1994)

Constitution may be adopted or rejected by voters--resubmission procedure.

Section 18(q). If a majority of the votes cast by the qualified voters voting on the county constitution are in favor of the proposal, then the county constitution shall be adopted. If a majority of the votes cast by the qualified voters voting thereon are opposed to the proposal, the county constitution shall not be adopted. A proposal to create a county constitution may not be resubmitted to the voters except after the voters approve the selection of a commission to draft a county constitution as provided in section 18(m) of this article and such proposal shall not be resubmitted to the voters until two years after the proposed county constitution has been rejected.

(Adopted November 8, 1994)

Certified copies of county constitution to be filed, where--amendments to constitution, procedure.

Section 18(r). Duplicate certificates shall be made, setting forth the adopted county constitution, and its ratification signed by the election authority of the county after canvassing election returns. One of the certified copies shall be deposited in the office of the secretary of state and the other, after being recorded in the records of the county, shall be deposited among the archives of the county and all courts shall take judicial notice thereof. Amendments shall be certified and deposited in the same way. Amendments to the county constitution shall be approved by the voters and shall become part of the county constitution at the time and under the conditions fixed in each amendment.

(Adopted November 8, 1994)

LOCAL GOVERNMENT

Certain cities may adopt charter form of government--procedure to frame and adopt--notice required--effect of.

Section 19. Any city having more than five thousand inhabitants or any other incorporated city as may be provided by law may frame and adopt a charter for its own government. The legislative body of the city may, by ordinance, submit to the voters the question: "Shall a commission be chosen to frame a charter?" If the ordinance takes effect more than sixty days before the next election, the question shall be submitted at such election and if not, then at the next general election thereafter, except as herein otherwise provided. The question shall also be submitted on a petition signed by ten percent of the qualified electors of the city, filed with the body or official in charge of the city elections. If the petition prays for a special election and is signed by twenty percent of the qualified electors, a special election shall be held not less than sixty nor more than ninety days after the filing of the petition. The number of electors required to sign any petition shall be based upon the total number of electors voting at the last preceding general city election. The election body or official shall forthwith finally determine the sufficiency of the petition. The question, and the names or the groups of names of the electors of the city who are candidates for the commission, shall be printed on the same ballot without party designation. Candidates for the commission shall be nominated by petition signed by not less than two percent of the qualified electors voting at the next preceding city election, and filed with the election body or official at least thirty days prior to the election; provided that the signatures of one thousand electors shall be sufficient to nominate a candidate. If a majority of the electors voting on the question vote in the affirmative, the thirteen candidates receiving the highest number of votes shall constitute the commission. On the death, resignation or inability of any member to serve, the remaining members of the commission shall select the successor. All necessary expenses of the commission shall be paid by the city. The charter so framed shall be submitted to the electors of the city at an election held at the time fixed by the commission, but not less than thirty days subsequent to the completion of the charter nor more than one year from the date of the election of the commission. The commission may submit for separate vote any parts of the charter, or any alternative sections or articles, and the alternative sections or articles receiving the larger affirmative vote shall prevail if a charter is adopted. If the charter be approved by the voters it shall become the charter of such city at the time fixed therein and shall supersede any existing charter and amendments thereof. Duplicate certificates shall be made, setting forth the charter adopted and its ratification, signed by the chief magistrate of the city, and authenticated by its corporate seal. One of such certified copies shall be deposited in the office of the secretary of state and the other, after being recorded in the records of the city, shall be deposited among the archives of the city and all courts shall take judicial notice thereof. The notice of the election shall be published at least once a week on the same day of the week for at least three weeks in some daily or weekly newspaper of general circulation in the city or county, admitted to the post office as second class matter, regularly and consecutively published for at least three years, and having a list of bona fide subscribers who have voluntarily paid or agreed to pay a stated price for a subscription for a definite period of time, the last publication to be within two weeks of the election.

Source: Const. of 1875, Art. IX, § 16 (adopted Nov. 2, 1920)

(Amended October 5, 1971)

(1955) Since charter and ordinance provisions must not be out of harmony with state law, any such provisions which devote particular revenues of the city to special purposes and which are not clearly authorized by statute or constitutional provision must be disregarded and the amounts so devoted are to be included in reckoning the amount to be appropriated for police purposes under § 84.730, RSMo. *Spink v. Kemp*, 365 Mo. 368, 283 S.W.2d 502.

(1967) Petition could be supplemented within ten days to reach required number of signatures. *State v. Davis* (Mo.), 418 S.W.2d 163.

(1968) Proposed amendment to Kansas City charter which purported to impose a total earnings tax higher than the tax permitted by statute was invalid. *Grant v. Kansas City* (Mo.), 431 S.W.2d 89.

(1990) Constitutional provision does not entitle home rule charter city to give its human rights commission power to determine violation of city ordinance against employment discrimination, where Const., Art. V, § 23, states that municipal judge is to hear and determine violations of municipal ordinances. *Yellow Freight Systems, Inc. v. Mayor's Commission on Human Rights of the City of Springfield*, 791 S.W.2d 382 (Mo. 1990)(en banc).

(1993) Where city's charter claimed any powers which general assembly had authority to confer, including power of eminent domain within or without its corporate boundaries, city had authority to condemn land outside its territorial municipal boundaries. *City of Cape Girardeau v. Jett*, 851 S.W.2d 114 (Mo. App. E.D.).

Power of charter cities, how limited.

Section 19(a). Any city which adopts or has adopted a charter for its own government, shall have all powers which the general assembly of the state of Missouri has authority to confer upon any city, provided such powers are consistent with the constitution of this state and are not limited or denied either by the charter so adopted or by statute. Such a city shall, in addition to its home rule powers, have all powers conferred by law.

(Adopted October 5, 1971)

(1976) Held, Kansas City, being a charter city, "has authority to grant city funds to school districts, or portions of school districts, lying within its corporate limits." *Enright v. Kansas City* (Mo. Banc), 536 S.W.2d 17.

(2000) Proposed city charter amendments, requiring two-thirds voter approval on every tax increment financing measure and abrogating city power of eminent domain incident to any tax increment financing redevelopment plan or project, violated state statutes and thus were unconstitutional. *State ex rel. Hazelwood Yellow Ribbon Committee v. Klos*, 35 S.W.3d 457 (Mo.App.E.D.).

Amendment to city charters--procedure to submit and adopt.

Section 20. Amendments of any city charter adopted under the foregoing provisions may be submitted to the electors by a commission as provided for a complete charter. Amendments may also be proposed by the legislative body of the city or by petition of not less than ten percent of the registered qualified electors of the city, filed with the body or official having charge of the city elections, setting forth the proposed amendment. The legislative body shall at once provide, by ordinance, that any amendment so proposed shall be submitted to the electors at the next election held in the city not less than sixty days after its passage, or at a special election held as provided for a charter. Any amendment approved by a majority of the qualified electors voting thereon, shall become a part of the charter at the time and under the conditions fixed in the amendment; and sections or articles may be submitted separately or in the alternative and determined as provided for a complete charter.

Source: Const. of 1875, Art. IX, § 17 (adopted Nov. 2, 1920)

(1955) Since extension of boundaries requires amendment of charter of city organized under § 20, Art. VI of the Constitution, § 71.015 is invalid as to such city, because compliance therewith

would make impossible submission of charter amendment in accordance with such constitutional provision. *McConnell v. City of Kansas City (Mo.)*, 282 S.W.2d 518.

(1962) Where requisite petitions were filed the city council was obligated to pass an ordinance submitting a proposed amendment to a vote and its failure to do so would not prevent the court from ordering the placing of the matter upon the ballot. *State ex rel. Lane v. Chambers (A.)*, 353 S.W.2d 835.

(1963) The annexation of additional territory to a constitutional charter city, by amendment of the charter, is a matter of more than merely municipal affairs and concern and is subject to judicial review as to whether such action was reasonable and necessary. *McDonnell Aircraft Corp. v. City of Berkeley (Mo.)*, 367 S.W.2d 498.

(1965) Sets out the exclusive mode of annexation for constitutional charter cities. *City of Hannibal v. Winchester (Mo.)*, 391 S.W.2d 279.

(1965) Sawyers Act applies to all cities of all classes, except those where terms of the Sawyers Act conflict with constitutional provisions relating to annexation, and those cities to which Sawyers Act is made inapplicable by subsequent legislation. *Julian v. Mayor, Councilmen and Citizens of the City of Liberty (Mo.)*, 391 S.W.2d 864.

(1967) Shortening term of office by amending charter to change term from four years to two years not violative of Art. VII, § 12, Constitution of Missouri. *State v. Davis (Mo.)*, 418 S.W.2d 163.

(1968) A determination of what methods of charter amendments are permitted and which of these methods were used by a city is an application of and not a constriction of the constitutional provisions, and appeals court had jurisdiction. *City of Joplin v. Village of Shoal Creek Drive (A.)*, 434 S.W.2d 25.

Reclamation of blighted, substandard or insanitary areas.

Section 21. Laws may be enacted, and any city or county operating under a constitutional charter may enact ordinances, providing for the clearance, replanning, reconstruction, redevelopment and rehabilitation of blighted, substandard or insanitary areas, and for recreational and other facilities incidental or appurtenant thereto, and for taking or permitting the taking, by eminent domain, of property for such purposes, and when so taken the fee simple title to the property shall vest in the owner, who may sell or otherwise dispose of the property subject to such restrictions as may be deemed in the public interest.

(1954) Land Clearance for Redevelopment Law (RSMo, § 99.300 et seq.) does not contravene this provision of the Constitution. *State on Inf. Dalton v. Land Clearance for Redev. Auth.*, 364 Mo. 974, 270 S.W.2d 44.

(1954) In determining the validity of slum clearance legislation granting power of eminent domain, § 28, Art. I, and § 21, Art. VI, are to be construed together and as so construed a legislative finding that a blighted or insanitary area exists so as to authorize the exercise of the power of eminent domain is conclusive on the courts in absence of allegation and proof that the finding is arbitrary, or induced by fraud, collusion or bad faith. *State on Inf. Dalton v. Land Clearance for Redev. Auth.*, 364 Mo. 974, 270 S.W.2d 44; (1954) *Land Clearance for Redev. Auth. v. City of St. Louis (Mo.)*, 270 S.W.2d 58.

(2008) Section authorizes non-charter as well as charter cities to exercise power of eminent domain. *City of Arnold v. Tourkakis*, 249 S.W.3d 202 (Mo.banc).

Laws affecting charter cities--officers and employees.

Section 22. No law shall be enacted creating or fixing the powers, duties or compensation of any municipal office or employment, for any city framing or adopting its own charter under this or any previous constitution, and all such offices or employments heretofore created shall cease at the end of the terms of any present incumbents.

(1958) Office of license collector in St. Louis City is a "county office" and constitutional provision (Art. VI § 22) does not effect its abolition as a municipal office. *Preisler v. Hayden* (Mo.), 309 S.W.2d 645.

(1968) As applied to constitutional charter cities, §§ 290.350 and 290.360, RSMo, are unconstitutional and void as imposing duties upon a municipal officer. *State ex rel. Burke v. Cervantes* (Mo.), 423 S.W.2d 791.

(1972) City home rule charter provision which provided that salary of firemen should not be less than those of corresponding ranks of police whose pay scale was set by state legislature is constitutional. *State ex rel. St. Louis F.F. Ass'n No. 73 v. Stemmler* (Mo.), 479 S.W.2d 456.

(1975) Chapter 610, RSMo, held not to violate this section by imposing duties on the St. Louis city board of apportionment not required by the city charter. *Cohen v. Poelker* (Mo.), 520 S.W.2d 50.

(1996) General assembly may not tell the officers of a charter city what they must do; it may, however, limit the powers a charter city may exercise through its officers. *City of Springfield v. Goff*, 918 S.W.2d 786 (Mo.banc 1996).

FINANCES

Limitation on ownership of corporate stock, use of credit and grants of public funds by local governments.

Section 23. No county, city or other political corporation or subdivision of the state shall own or subscribe for stock in any corporation or association, or lend its credit or grant public money or thing of value to or in aid of any corporation, association or individual, except as provided in this constitution.

Source: Const. of 1875, Art. IV, § 47, Art. IX, § 6.

(1954) Section 99.450, RSMo, which requires sale of property cleared at public expense at fair value is not grant of special privilege or of public property in aid of private persons. *State on Inf. Dalton v. Land Clearance for Redev. Auth.* 364 Mo. 974, 270 S.W.2d 44; (1954) *Land Clearance for Redev. Auth. v. City of St. Louis* (Mo.), 270 S.W.2d 58.

Cities may acquire and furnish industrial plants--indebtedness for.

Section 23(a). By vote of two-thirds of the qualified electors thereof voting thereon, any county, city or incorporated town or village in this state may become indebted for and may purchase, construct, extend or improve plants to be leased or otherwise disposed of pursuant to law to private persons or corporations for manufacturing, warehousing and industrial development purposes, including the real estate, buildings, fixtures and machinery; and the indebtedness incurred hereunder shall not be subject to the provisions of sections 26(a), 26(b), 26(c), 26(d) and 26(e) of Article VI of this Constitution; but any indebtedness incurred hereunder for this purpose shall not exceed ten

percent of the value of taxable tangible property in the county, city, or incorporated town or village as shown by the last completed assessment for state and county purposes.

(Adopted November 8, 1960)

(Amended November 5, 1974)

Annual budgets and reports of local government and municipally owned utilities--audits.

Section 24. As prescribed by law all counties, cities, other legal subdivisions of the state, and public utilities owned and operated by such subdivisions shall have an annual budget, file annual reports of their financial transactions, and be audited.

Limitation on use of credit and grant of public funds by local governments--pensions and retirement plans for employees of certain cities and counties.

Section 25. No county, city or other political corporation or subdivision of the state shall be authorized to lend its credit or grant public money or property to any private individual, association or corporation except as provided in Article VI, Section 23(a) and except that the general assembly may authorize any county, city or other political corporation or subdivision to provide for the retirement or pensioning of its officers and employees and the surviving spouses and children of deceased officers and employees and may also authorize payments from any public funds into a fund or funds for paying benefits upon retirement, disability or death to persons employed and paid out of any public fund for educational services and to their beneficiaries or estates; and except, also, that any county of the first class is authorized to provide for the creation and establishment of death benefits, pension and retirement plans for all its salaried employees, and the surviving spouses and minor children of such deceased employees; and except also, any county, city or political corporation or subdivision may provide for the payment of periodic cost of living increases in pension and retirement benefits paid under this section to its retired officers and employees and spouses of deceased officers and employees, provided such pension and retirement systems will remain actuarially sound.

Source: Const. of 1875, Art. IV, §§ 47, 47a, 48a, (as amended November 2, 1948).

(Amended January 14, 1966)

(Amended November 6, 1984)

(1953) Election of St. Louis City board of education to bring school district under workmen's compensation system of state held not violative of constitution particularly in view of teachers' pension provision of § 25, Art. VI. *Hickey v. Board of Education of City of St. Louis*, 363 Mo. 1039, 256 S.W.2d 775.

(1968) Allowing proceeds of tax to be expended by private agency violates this section. *Ruggeri v. City of St. Louis (Mo.)*, 429 S.W.2d 765.

(1975) Held an increase in pensions for persons already retired based on cost of living violates Art. VI, § 25, Const. of Mo. and that pension funds retain their identity as public funds. Section 86.441 insofar as it applies to persons already retired on August 13, 1972, is unconstitutional. *Police Retirement System v. Kansas City (Mo.)*, 529 S.W.2d 388.

(1975) Constitutionality upheld as not violating Art. III, § 39, or Art. VI, § 25, of the constitution of Missouri. *State ex rel. Dreer v. Public School Retirement System (Mo.)*, 519 S.W.2d 290.

Limitation on indebtedness of local governments without popular vote.

Section 26(a). No county, city, incorporated town or village, school district or other political corporation or subdivision of the state shall become indebted in an amount exceeding in any year the income and revenue provided for such year plus any unencumbered balances from previous years, except as otherwise provided in this constitution.

Source: Const. of 1875, Art. X, § 12 (adopted Nov. 2, 1920).

(1958) Contract of employment with defendant city whereby plaintiff was to make preliminary investigations, plans and supervise construction of proposed sewer improvements was held contrary to public policy and ultra vires where both parties realized necessity of approval by voters of city of bond issues to secure funds for the improvements and voters subsequently failed to approve bond issues. *Shikles v. City of Clinton (A.)*, 319 S.W.2d 9.

(1958) Indebtedness incurred by school district was valid so long as it was within the anticipated revenue for the year. *First National Bank of Stoutland v. Stoutland School District (Mo.)*, 319 S.W.2d 570.

(1967) Cities' cooperative sewer agreement which conditioned obligation of a fourth class city to build facilities on its passage of a bond issue did not, until the passage of the bond issue, create an indebtedness of the city, within constitutional debt limitation, and was not ultra vires or void ab initio. The passage of the bond issue obligated the city to perform the construction and established corresponding obligation of the other contracting city to perform its duties conditioned on the passage of the bond issue. *Kansas City v. City of Raytown (Mo.)*, 421 S.W.2d 504.

(1973) Lease agreement held to be an indebtedness of city and subject to this section. *Scruggs v. Kansas City (Mo.)*, 499 S.W.2d 500.

(1976) In action by state highway commission to recover on contract whereby city agreed to pay one-half of cost of acquisition of right-of-way for highway through the city, record was insufficient to sustain city's defense that contract was ultra vires, as being in violation of Art. VI, § 26(a), since there was no showing that the city, by reason of the contract, became indebted in an amount exceeding the revenues for the year in which the contract became binding plus any encumbered balances from previous years. *State ex rel. Highway Commission v. City of Washington (Mo.)*, 533 S.W.2d 555.

(2007) Requirement in sections 86.344 and 86.355, RSMo, that City of St. Louis pay entire contribution amounts certified by trustees for police retirement system and firemen's retirement system does not violate section. *Neske v. City of St. Louis*, 218 S.W.3d 417 (Mo.banc).

Limitation on indebtedness of local government authorized by popular vote.

Section 26(b). Any county, city, incorporated town or village or other political corporation or subdivision of the state, by vote of the qualified electors thereof voting thereon, may become indebted in an amount not to exceed five percent of the value of taxable tangible property therein as shown by the last completed assessment for state or county purposes, except that a school district by a vote of the qualified electors voting thereon may become indebted in an amount not to exceed

fifteen percent of the value of such taxable tangible property. For elections referred to in this section the vote required shall be four-sevenths at the general municipal election day, primary or general elections and two-thirds at all other elections.

Source: Const. of 1875, Art. X, § 12 (as adopted Nov. 2, 1920).

(Amended August 2, 1988)

(Amended April 7, 1998)

(1952) Where principal and interest on city bonds issued under §§ 250.010 to 250.250 for extension and improvement of combined waterworks and sewerage system are payable solely from revenue derived from such combined system, such bonds do not constitute a general municipal indebtedness under § 26, Art. VI of the Constitution. *City of Maryville v. Cushman*, 363 Mo. 87, 249 S.W.2d 347.

(1952) Where at time of election on proposed bond issue by school district, such issue would exceed constitutional limit, such bonds were invalid, notwithstanding such issue would not exceed the limit at time bonds were issued and sold. *State ex rel. Consolidated District C-4 v. Holmes*, 362 Mo. 1018, 245 S.W.2d 882.

(1958) Contract of employment with defendant city whereby plaintiff was to make preliminary investigations, plans and supervise construction of proposed sewer improvements was held contrary to public policy and ultra vires where both parties realized necessity of approval by voters of city of bond issues to secure funds for the improvements and voters subsequently failed to approve bond issues. *Shikles v. City of Clinton (A.)*, 319 S.W.2d 9.

(1971) Proposed issue of debentures by hospital district which imposed an absolute and unconstitutional obligation on district to repay without vote of people in district was invalid. *New Liberty Medical & Hosp. Corp. v. E.F. Hutton & Co. (Mo.)*, 474 S.W.2d 1.

Additional indebtedness of counties and cities when authorized by popular vote.

Section 26(c). Any county or city, by vote of the qualified electors thereof voting thereon, may incur an additional indebtedness for county or city purposes not to exceed five percent of the taxable tangible property shown as provided in section 26(b). For elections referred to in this section the vote required shall be four-sevenths at the general municipal election day, primary or general elections and two-thirds at all other elections.

Source: Const. of 1875, Art. X, § 12.

(Amended August 2, 1988)

Additional indebtedness of cities for public improvements--benefit districts--special assessments.

Section 26(d). Any city, by vote of the qualified electors thereof voting thereon, may become indebted not exceeding in the aggregate an additional ten percent of the value of the taxable tangible property shown as provided in section 26(b), for the purpose of acquiring rights-of-way, constructing, extending and improving the streets and avenues and acquiring rights-of-way, constructing, extending and improving sanitary or storm sewer systems. The governing body of the city may provide that any portion or all of the cost of any such improvement be levied and assessed by the governing body on property benefited by such improvement, and the city shall collect any

special assessments so levied and shall use the same to reimburse the city for the amount paid or to be paid by it on the bonds of the city issued for such improvement. For elections referred to in this section the vote required shall be four-sevenths at the general municipal election day, primary or general elections and two-thirds at all other elections.

(Amended August 2, 1988)

Additional indebtedness of cities for municipally owned water and light plants--limitations.

Section 26(e). Any city, by vote of the qualified electors thereof voting thereon, may incur an indebtedness in an amount not to exceed an additional ten percent of the value of the taxable tangible property shown as provided in section 26(b), for the purpose of paying all or any part of the cost of purchasing or constructing waterworks, electric or other light plants to be owned exclusively by the city, provided the total general obligation indebtedness of the city shall not exceed twenty percent of the assessed valuation. For elections referred to in this section the vote required shall be four-sevenths at the general municipal election day, primary or general elections and two-thirds at all other elections.

Source: Const. of 1875, Art. X, §§ 12, 12a (as adopted Nov. 2, 1920).

(Amended August 2, 1988)

Annual tax to pay and retire obligations within twenty years.

Section 26(f). Before incurring any indebtedness every county, city, incorporated town or village, school district, or other political corporation or subdivision of the state shall provide for the collection of an annual tax on all taxable tangible property therein sufficient to pay the interest and principal of the indebtedness as they fall due, and to retire the same within twenty years from the date contracted.

Source: Const. of 1875, Art. X, §§ 12, 12a.

(1961) The fact that a ballot providing for the approval of the issuance of general obligation bonds for the construction of lateral sewers in the city contained a statement that the city would be reimbursed in due course from assessments against property benefited held entirely within this constitutional provision and not invalid under § 95.125. *City of Raytown v. Kemp* (Mo.), 349 S.W.2d 363.

(1974) Held that a limited obligation bond which was to be retired by revenue from a convention center and from the proceeds of certain tourism and merchants' and manufacturers' tax only is not subject to the provisions of this section requiring an annual tax on all taxable tangible property. *Wunderlich v. City of St. Louis* (Mo.), 511 S.W.2d 753.

(1975) Held that language on ballot ". . . these general obligation bonds will be payable first from a citywide sales tax . . ." did not invalidate bonds, but court indicated that in a subsequent case they might hold differently. *Northern Trust Co. v. City of Independence* (Mo.), 526 S.W.2d 825.

(1996) Art. III, Sec. 38(c) creates an exception to this section for neighborhood improvement districts. *Spradlin v. City of Fulton*, 924 S.W.2d 259 (Mo.banc 1996).

Contest of elections to authorize indebtedness.

Section 26(g). All elections under this article may be contested as provided by law.

(1956) Provision authorizing contest of all elections is not self-executing and since there is no implementing legislation as to school bond issue elections, such may not be contested. *Wann v. v. Reorganized School Dist. No. 6(Mo.)*, 293 S.W.2d 408.

(1958) Section 26(g), Art. VI, is not self-executing and does not authorize the adjudication of a school bond election contest. *Eberle v. Plato Cons. School Dist. No. C-5 (Mo.)*, 313 S.W.2d 1.

(1963) As § 26(g), Art. VI, is not self-executing and no statutory authority exists, Missouri courts have no jurisdiction to entertain actions to contest the results of school elections. *Nichols v. Reorganized School District No. 1 of Laclede County, et al. (Mo.)*, 364 S.W.2d 9.

Political subdivision revenue bonds for utility, industrial and airport purposes--restrictions.

Section 27. Any city or incorporated town or village in this state, by vote of a majority of the qualified electors thereof voting thereon, and any joint board or commission, established by a joint contract between municipalities or political subdivisions in this state, by compliance with then applicable requirements of law, may issue and sell its negotiable interest bearing revenue bonds for the purpose of paying all or part of the cost of purchasing, construction, extending or improving any of the following projects:

(1) Revenue producing water, sewer, gas or electric light works, heating or power plants;

(2) Plants to be leased or otherwise disposed of pursuant to law to private persons or corporations for manufacturing and industrial development purposes, including the real estate, buildings, fixtures and machinery; or

(3) Airports. The project shall be owned by the municipality or by the cooperating municipalities or political subdivisions or the joint board or commission, either exclusively or jointly or by participation with cooperatives or municipally owned or public utilities, the cost of operation and maintenance and the principal and interest of the bonds to be payable solely from the revenues derived by the municipality or by the cooperating municipalities or political subdivisions or the joint board or commission from the operation of the utility or the lease or operation of the project. The bonds shall not constitute an indebtedness of the state, or of any political subdivision thereof, and neither the full faith and credit nor the taxing power of the state or of any political subdivision thereof is pledged to the payment of or the interest on such bonds. Nothing in this section shall affect the ability of the public service commission to regulate investor-owned utilities.

(Amended November 8, 1960)

(Amended August 17, 1965)

(Amended November 5, 1974)

(Amended November 7, 1978)

(Amended November 4, 1986)

(Amended November 3, 1998)

(Amended November 5, 2002)

(1951) This section does not affect the issuance of revenue bonds for the purpose of acquiring and developing parking facilities by city under §§ 71.250 and 71.360. *Kansas City v. Fishman*, 362 Mo. 352, 241 S.W.2d 377.

(1952) This section has no application to the issuance of revenue bonds for establishment and extension or improvement of combined waterworks and sewerage system as authorized by Chap. 250, RSMo. *City of Maryville v. Cushman*, 363 Mo. 87, 249 S.W.2d 347.

(1962) Provisions of this section, added by amendment in 1960, relating to bonds for industrial development purposes are not self-executing and proceedings taken by city pursuant to enabling act but prior to effective date of the act were invalid. *Petition of Monroe City (Mo.) v. Southern*, 359 S.W.2d 706.

(1967) A municipality may sell a facility acquired with the proceeds of industrial revenue bonds. *Wring v. City of Jefferson (Mo.)*, 413 S.W.2d 292.

See Revisor's note following Art. VI, § 27(a).

Political subdivision revenue bonds issued for utilities and airports, restrictions.

Section 27(a). Any county, city or incorporated town or village in this state, by vote of a majority of the qualified electors thereof voting thereon, may issue and sell its negotiable interest bearing revenue bonds for the purpose of paying all or part of the cost of purchasing, constructing, extending or improving any of the following: (1) revenue producing water, gas or electric light works, heating or power plants; or (2) airports; to be owned exclusively by the county, city or incorporated town or village, the cost of operation and maintenance and the principal and interest of the bonds to be payable solely from the revenues derived by the county, city or incorporated town or village from the operation of the utility or airport.

(Adopted November 7, 1978)

*Revisor's note: Section 27 was adopted by a vote of the people as Constitutional Amendment number seven on Nov. 7, 1978. Sections 27(a), 27(b), and 27(c) also received an affirmative vote of the people at that time as Constitutional Amendment number six, but some believed there was a conflict between the two proposals, and the then governor declared that only Amendment number seven, § 27, had been adopted.

However, in the case of *State ex inf. Ashcroft ex rel. Bell v. City of Fulton*, 642 S.W.2d 617 (Mo. banc 1982) decided on Dec. 3, 1982, the Missouri Supreme Court ruled that both amendments had been adopted and that §§ 27(a), 27(b), and 27(c) were part of the Missouri Constitution. Those sections are accordingly now printed as part of Art. VI of the Mo. Const.

Political subdivision revenue bonds issued for industrial development, restriction.

Section 27(b). Any county, city or incorporated town or village in this state, by a majority vote of the governing body thereof, may issue and sell its negotiable interest bearing revenue bonds for the purpose of paying all or part of the cost of purchasing, constructing, extending or improving any facility to be leased or otherwise disposed of pursuant to law to private persons or corporations for manufacturing, commercial, warehousing and industrial development purposes, including the real estate, buildings, fixtures and machinery. The cost of operation and maintenance and the principal and interest of the bonds shall be payable solely from the revenues derived by the county, city, or incorporated town or village from the lease or other disposal of the facility.

(Adopted November 7, 1978)

*See Revisor's note following Art. VI, § 27(a).

Revenue bonds defined.

Section 27(c). As used in article VI, sections 27(a) and 27(b), the term "revenue bonds" means bonds neither the interest nor the principal of which is an indebtedness or obligation of the issuing county, city or incorporated town or village.

(Adopted November 7, 1978)

*See Revisor's note following Art. VI, § 27(a).

Refunding bonds.

Section 28. For the purpose of refunding, extending, and unifying the whole or any part of its valid bonded indebtedness any county, city, school district, or other political corporation or subdivision of the state, under terms and conditions prescribed by law may issue refunding bonds not exceeding in amount the principal of the outstanding indebtedness to be refunded and the accrued interest to the date of such refunding bonds. The governing authority shall provide for the payment of interest at not to exceed the same rate, and the principal of such refunding bonds, in the same manner as was provided for the payment of interest and principal of the bonds refunded.

Application of funds derived from public debts.

Section 29. The moneys arising from any loan, debt, or liability contracted by the state, or any county, city, or other political subdivision, shall be applied to the purposes for which they were obtained, or to the repayment of such debt or liability, and not otherwise.

Source: Const. of 1875, Art. X, § 20.

CITY AND COUNTY OF ST. LOUIS

Powers conferred with respect to intergovernmental relations -- procedure for selection of board of freeholders.

Section 30(a). The people of the city of St. Louis and the people of the county of St. Louis shall have power (1) to consolidate the territories and governments of the city and county into one political subdivision under the municipal government of the city of St. Louis; or, (2) to extend the territorial boundaries of the county so as to embrace the territory within the city and to reorganize and consolidate the county governments of the city and county, and adjust their relations as thus united, and thereafter the city may extend its limits in the manner provided by law for other cities; or, (3) to enlarge the present or future limits of the city by annexing thereto part of the territory of the county, and to confer upon the city exclusive jurisdiction of the territory so annexed to the city; or, (4) to establish a metropolitan district or districts for the functional administration of services common to the area included therein; or, (5) to formulate and adopt any other plan for the partial or complete government of all or any part of the city and the county. The power so given shall be exercised by the vote of the people of the city and county upon a plan prepared by a board of freeholders consisting of nineteen members, nine of whom shall be electors of the city and nine electors of the county and one an elector of some other county. Upon the filing with the officials in general charge of elections in the city of a petition proposing the exercise of the powers hereby granted, signed by registered voters of the city in such number as shall equal three percent of the total vote cast in the city at the last general election for governor, and the certification thereof by the election officials to the mayor, and to the governor, then, within ten days after the certification the mayor shall, with the

approval of a majority of the board of aldermen, appoint the city's nine members of the board, not more than five of whom shall be members of or affiliated with the same political party. Each member so appointed shall be given a certificate certifying his appointment signed by the mayor and attested by the seal of the city. Upon the filing with the officials in general charge of elections in the county of a similar petition signed by registered voters of the county, in such number as shall equal three percent of the total vote cast in the county at the last general election for governor, and the certification thereof by the county election officials to the county supervisor of the county and to the governor, within ten days after the certification, the county supervisor shall, with the approval of a majority of the county council, appoint the county's nine members of the board, not more than five of whom shall be members of or affiliated with the same political party. Each member so appointed shall be given a certificate of his appointment signed by the county supervisor and attested by the seal of the county.

Source: Const. of 1875, Art. IX, § 26 (as adopted Nov. 4, 1924)

(Amended November 8, 1966)

(1955) Plan for sewer district adopted under this section properly included provision for imposing duties on county and city officers in assessment, levy and collection of taxes. State on Inf. Dalton v. Metropolitan St. L. Sewer Dist. (Mo.), 275 S.W.2d 225.

(1955) The words "functional administration" as used in subdivision (4) means administration of such services so as to make them function properly for the purposes for which they were intended. Sewer district formed may be given all areas reasonably necessary and powers to condemn, incur debts, issue bonds and tax anticipation notes and may take over existing sewers. State on Inf. Dalton v. Metropolitan St. Louis Sewer Dist. (Mo.), 275 S.W.2d 225.

(1964) Provision of plan of Metropolitan Sewer District providing district with power to sue and be sued, in absence of specific provision that district would be liable on tort claims, held not to authorize action for damages for negligence or nuisance. Court suggested possibility plaintiffs might proceed under procedure known as inverse condemnation under Art. I, § 26 of Const. Page v. Metropolitan St. Louis Sewer District (Mo.), 377 S.W.2d 348.

(1989) Provision that board of freeholders be property owners violates equal protection clause of Federal Constitution. Quinn v. Millsap, 491 U.S. 95, 109 S.Ct. 2324.

Appointment of member by governor--meetings of board--vacancies --compensation and reimbursement of members--preparation of plan --taxation of real estate affected--submission at special elections --effect of adoption--certification and recordation--judicial notice.

Section 30(b). Upon certification of the filing of such similar petitions by the officials in general charge of elections of the city and the county, the governor shall appoint one member of the board who shall be a resident of the state, but shall not reside in either the city or the county, who shall be given a certificate of his appointment signed by the governor and attested by the seal of the state. The freeholders of the city and county shall fix reasonable compensation and expenses for the freeholder appointed by the governor and the cost shall be paid equally by the city and county. The appointment of the board shall be completed within thirty days after the certification of the filing of the petition, and at ten o'clock on the second Monday after their appointment the members of the board shall meet in the chamber of the board of aldermen in the city hall of the city and shall proceed with the discharge of their duties, and shall meet at such other times and places as shall be agreed

upon. On the death, resignation or inability of any member of the board to serve, the appointing authority shall select the successor. The board shall prepare and propose a plan for the execution of the powers herein granted and for the adjustment of all matters and issues arising thereunder. The members of the board shall receive no compensation for their services as members, but the necessary expenses of the board shall be paid one-half by the county and one-half by the city on vouchers signed by the chairman of the board. The plan shall be signed in duplicate by the board or a majority thereof, and one copy shall be returned to the officials having general charge of elections in the city, and the other to such officials in the county, within one year after the appointment of the board. Said election officials shall cause separate elections to be held in the city and county, on the day fixed by the freeholders, at which the plan shall be submitted to the qualified voters of the city and county separately. The elections shall not be less than ninety days after the filing of the plan with said officials, and not on or within seventy days of any state or county primary or general election day in the city or county. The plan shall provide for the assessment and taxation of real estate in accordance with the use to which it is being put at the time of the assessment, whether agricultural, industrial or other use, giving due regard to the other provisions of this constitution. If a majority of the qualified electors of the city voting thereon, and a majority of the qualified electors of the county voting thereon at the separate elections shall vote for the plan, then, at such time as shall be prescribed therein, the same shall become the organic law of the territory therein defined, and shall take the place of and supersede all laws, charter provisions and ordinances inconsistent therewith relating to said territory. If the plan be adopted, copies thereof, certified to by said election officials of the city and county, shall be deposited in the office of the secretary of state and recorded in the office of the recorder of deeds for the city, and in the office of the recorder of deeds of the present county, and the courts of this state shall take judicial notice thereof.

Source: Const. of 1875, Art. IX, § 26 (as adopted Nov. 4, 1924).

(1954) Where governor did not appoint nineteenth member of board of freeholders within thirty days as required by this section, his appointment on 67th day was valid. *State on Inf. Dalton v. Dearing*, 364 Mo. 475, 263 S.W.2d 381.

(1955) Sewer district formed under this section held properly given power to tax tangible personal property as well as real estate. *State on Inf. Dalton v. Metropolitan St. L. Sewer Dist. (Mo.)*, 275 S.W.2d 225.

(1989) Provision that board of freeholders be property owners violates equal protection clause of Federal Constitution. *Quinn v. Millsap*, 491 U.S. 95, 109 S.Ct. 2324.

(1990) Provision authorizing appointment of "freeholders" to board is violation of equal protection clause of Federal Constitution. Unconstitutional portion is severable and remainder of section is valid. (Mo. banc) *Millsap v. Quinn*, 785 S.W.2d 82.

CITY OF ST. LOUIS

Recognition of city of St. Louis as now existing both as a city and as a county.

Section 31. The city of St. Louis, as now existing, is recognized both as a city and as a county unless otherwise changed in accordance with the provisions of this constitution. As a city it shall continue for city purposes with its present charter, subject to changes and amendments provided by the constitution or by law, and with the powers, organization, rights and privileges permitted by this constitution or by law. As a county, it shall not be required to adopt a county charter but may, except for the office of circuit attorney, amend or revise its present charter to provide for the number, kinds, manner of selection, terms of office and salaries of its county officers, and for the exercise of all

powers and duties of counties and county officers prescribed by the constitution and laws of the state.

(Amended November 5, 2002)

(1961) Where property for city park was acquired by condemnation prior to the adoption of the 1875 Constitution, a charter provision adopted under the 1875 constitutional provision controls as to whether or not the city may alter the park for the purpose of creating an expressway or roadway through it. *Kirkwood v. City of St. Louis (Mo.)*, 351 S.W.2d 781.

Amendment of charter of St. Louis.

Section 32(a). The charter of the city of St. Louis now existing, or as hereafter amended or revised, may be amended or revised for city or county purposes from time to time by proposals therefor submitted by the lawmaking body of the city to the qualified voters thereof, at a general or special election held at least sixty days after the publication of such proposals, and accepted by three-fifths of the qualified electors voting for or against each of said amendments or revisions so submitted.

Source: Const. of 1875, Art. IX § 22 (as amended Nov. 6, 1934).

(Amended November 5, 2002)

(1954) Enactment of RSMo, §§ 82.470 and 82.480 did not amend the charter of St. Louis City in contravention of Art. VI, § 32 of the Const. *Petition of City of St. Louis*, 364 Mo. 700, 266 S.W.2d 753.

(1972) City home of rule charter provision which provided that salary of firemen should not be less than those of corresponding ranks of police whose pay scale was set by state legislature is constitutional. *State ex rel. St. Louis F. F. Ass'n No. 73 v. Stemmler (Mo.)*, 479 S.W.2d 456.

Revision of charter of St. Louis--officers to complete terms and staff given opportunity for city employment.

Section 32(b). In the event of any amendment or revision of the charter of the city of St. Louis which shall reorganize any county office and/or transfer any or all of the duties, powers and functions of any county officer who is then in office, the officer shall serve out the remainder of his or her term, and the amendment or revision of the charter of the city of St. Louis shall take effect, as to such office, upon the expiration of the term of such office holder. In the event of any amendment or revision of the charter of the city of St. Louis which shall reorganize any county office and/or transfer any or all of the duties, powers and functions of any county officer, all of the staff of such office shall be afforded the opportunity to become employees of the city of St. Louis with their individual seniority and compensation unaffected and on such other comparable terms and conditions as may be fair and equitable.

Source: Const. of 1875, Art. IX § 22 (as amended Nov. 6, 1934).

(Amended November 5, 2002)

(1956) City of St. Louis had no authority under § 18, Art. VI to include in a proposed new or revised charter provisions relating to number, kinds, manner of selection, terms of office and salaries of county officers. *Stemmler v. Einstein (Mo.)*, 297 S.W.2d 467.

(1960) City ordinance granting commission power to establish parking zones, with their time limitations and fixing the fees therefor to be collected through parking meters, held invalid as

unlawful delegation of legislative power. *Automobile Club of Mo. v. City of St. Louis (Mo.)*, 334 S.W.2d 355.

Effect of revision on retirement.

Section 32(c). An amendment or revision adopted pursuant to section 32(a) of this article shall not deprive any person of any right or privilege to retire and to retirement benefits, if any, to which he or she was entitled immediately prior to the effective date of that amendment or revision.

(Adopted November 5, 2002)

Certification, recordation and deposit of amendments and revised charter--judicial notice.

Section 33. Copies of any new or revised charter of the city of St. Louis or of any amendments to the present, or to any new or revised charter, with a certificate thereto appended, signed by the chief executive and authenticated by the seal of the city, setting forth the submission to and ratification thereof, by the qualified voters of the city shall be made in duplicate, one of which shall be deposited in the office of the secretary of state, and the other, after being recorded in the office of the recorder of deeds of the city, shall be deposited among the archives of the city, and thereafter all courts of this state shall take judicial notice thereof.

Source: Const. of 1875, Art. IX, § 21