

SENATE COMMITTEE SUBSTITUTE

FOR

SENATE BILL NO. 344

AN ACT

To repeal sections 92.105, 92.111, and 92.115, RSMo, and to enact in lieu thereof four new sections relating to earnings tax.

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

Section A. Sections 92.105, 92.111, and 92.115, RSMo, are repealed and four new sections enacted in lieu thereof, to be known as sections 92.105, 92.111, 92.114, and 92.115, to read as follows:

92.105. It is the intent of sections 92.105 to 92.125 that starting in 2011 voters in any city imposing an earnings tax will decide in local elections to continue the earnings tax. If the majority of local voters vote to continue the earnings tax, it will continue for five years, or in any city with more than four hundred thousand inhabitants and located in more than one county, for ten years, and then will be voted on again. If a majority of voters in any city having an earnings tax vote against continuing the earnings tax, it will be phased out pursuant to section 92.125 in such city over a period of ten years. Further, sections 92.105 to 92.125 prohibit any Missouri city or town that does not, as of November 2, 2010, impose an earnings tax, from imposing such a tax on residents and businesses.

92.111. 1. After December 31, 2011, no city, including any constitutional charter city, shall impose or levy an earnings tax, except a constitutional charter city that imposed or levied an earnings tax on November 2, 2010, may continue to impose the earnings tax if it submits to the

voters of such city pursuant to section 92.115 the question whether to continue such earnings tax for a period of five years, or if such city with more than four hundred thousand inhabitants and located in more than one county, for a period of ten years, and a majority of such qualified voters voting thereon approve such question, however, if no such election is held, or if in any election held to continue to impose or levy the earnings tax a majority of such qualified voters voting thereon fail to approve the continuation of the earnings tax, such city shall no longer be authorized to impose or levy such earnings tax except to reduce such tax in the manner provided by section 92.125.

2. As used in sections 92.111 to 92.200, unless the context clearly requires otherwise, the term "earnings tax" means a tax on the:

(1) Salaries, wages, commissions and other compensation earned by its residents;

(2) Salaries, wages, commissions and other compensation earned by nonresidents of the city for work done or services performed or rendered in the city;

(3) Net profits of associations, businesses or other activities conducted by residents;

(4) Net profits of associations, businesses or other activities conducted in the city by nonresidents;

(5) Net profits earned by all corporations as the result of work done or services performed or rendered and business or other activities.

92.114. 1. Notwithstanding any provision of law to the contrary, a city not within a county shall not continue to impose or levy an earnings tax pursuant to sections 92.105 to 92.200 without complying with the provisions of this section.

2. Beginning on September 30, 2023, the city shall prepare a quarterly report stating the following:

(1) The total receipts from the earnings tax for the quarter and for the calendar year-to-date;

(2) The receipts from the earnings tax, sorted by zip code of the residence of the individual paying the tax, for the quarter and the year-to-date;

(3) All refunds paid, sorted by zip code of the residence of the individual paying the tax for the quarter and the year-to-date; and

(4) All earnings tax payments remitted for work performed or rendered through telecommuting or otherwise performed or rendered remotely unless the location where such remote work or services are performed is located in the city.

3. The reports required by this section shall be open records pursuant to chapter 610. The city shall post each report required by this section on the main pages of the website of the city and its collector of revenue, and the reports posted shall be clearly identified in a manner designed to make them easily accessible to the public. The city shall submit each report required by this section to the state auditor, to the secretary of the Missouri senate, to the chair of the senate appropriations committee, to the clerk of the house of representatives, and to the chair of the house of representatives budget committee.

4. For all tax returns filed on or after January 1, 2024, the term "work done or services performed or rendered in the city", as used in sections 92.105 to 92.200, shall not include any work or services performed or rendered through telecommuting or otherwise performed or rendered remotely unless the location where such remote work or services are performed is located in the city. Any taxpayer

denied a refund for taxes paid for such work or services not performed or rendered in the city may bring a cause of action in a court of competent jurisdiction to recover the amount of the refund owed, and such taxpayer shall recover reasonable attorney's fees resulting from such cause of action. The cause of action permitted by this section may be brought as a class action, as provided for by rule 52.08 of the Missouri supreme court rules, notwithstanding any prior decision of a Missouri appellate court. Paying the earnings tax under protest shall not be a prerequisite to maintaining the cause of action permitted by this subsection.

5. By no later than September 30, 2023, any city not within a county that levies an earnings tax pursuant to sections 92.105 to 92.200 shall establish a process for taxpayers to request a refund for any earnings tax levied on work or services performed or rendered through telecommuting or otherwise performed or rendered remotely, unless the location where such remote work or services were performed is located in the city, which shall include a sample reimbursement form that is accessible to taxpayers on the city's website.

92.115. 1. Any constitutional charter city which as of November 2, 2010, imposed or levied an earnings tax may continue to impose or levy an earnings tax, pursuant to sections 92.111 to 92.200, if it submits to the qualified voters of such city on the next general municipal election date immediately following November 2, 2010, and once every five years thereafter, or if such city with more than four hundred thousand inhabitants and located in more than one county, once every ten years thereafter, the question whether to continue to impose and levy the earnings tax authorized pursuant to sections 92.111 to 92.200, and if a

majority of qualified voters voting approve the continuance of the earnings tax at such election.

2. (1) The question submitted to the qualified voters in any such city, except for any city with more than four hundred thousand inhabitants and located in more than one county, shall contain the earnings tax percentage imposed and the name of the city submitting the question and shall otherwise contain exactly the following language:

Shall the earnings tax of _____ %, imposed by the City of _____, be continued for a period of five (5) years commencing January 1 immediately following the date of this election?

☐ Yes

☐ No

(2) The question submitted to the qualified voters in any city with more than four hundred thousand inhabitants and located in more than one county shall contain the earnings tax percentage imposed and the name of the city submitting the question and shall otherwise contain exactly the following language:

Shall the earnings tax of _____ %, imposed by the City of _____, be continued for a period of ten (10) years commencing January 1st immediately following the date of this election?

☐ YES

☐ NO

3. If the question whether to continue to impose and levy the earnings tax fails to be approved by the majority of qualified voters voting thereon, the earnings tax levied and imposed on November 2, 2010, shall be reduced pursuant to section 92.125 commencing January first of the calendar year following the date of the election held under this section or January first of the calendar year following the

calendar year in which such election was authorized under this section but not held by such city.

4. No city which has begun reductions of its earnings tax pursuant to section 92.125 may, by ordinance or any other means, with or without voter approval, stop or suspend such reduction.