

SENATE BILL NO. 409

102ND GENERAL ASSEMBLY

INTRODUCED BY SENATOR SCHROER.

1515S.01H

KRISTINA MARTIN, Secretary

AN ACT

To repeal section 137.073, RSMo, and to enact in lieu thereof one new section relating to the assessment of personal property.

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

Section A. Section 137.073, RSMo, is repealed and one new
2 section enacted in lieu thereof, to be known as section 137.073,
3 to read as follows:

137.073. 1. As used in this section, the following
2 terms mean:

3 (1) "General reassessment", changes in value, entered
4 in the assessor's books, of a substantial portion of the
5 parcels of real property within a county resulting wholly or
6 partly from reappraisal of value or other actions of the
7 assessor or county equalization body or ordered by the state
8 tax commission or any court;

9 (2) "Tax rate", "rate", or "rate of levy", singular or
10 plural, includes the tax rate for each purpose of taxation
11 of property a taxing authority is authorized to levy without
12 a vote and any tax rate authorized by election, including
13 bond interest and sinking fund;

14 (3) "Tax rate ceiling", a tax rate as revised by the
15 taxing authority to comply with the provisions of this
16 section or when a court has determined the tax rate; except
17 that, other provisions of law to the contrary
18 notwithstanding, a school district may levy the operating

19 levy for school purposes required for the current year
20 pursuant to subsection 2 of section 163.021, less all
21 adjustments required pursuant to Article X, Section 22 of
22 the Missouri Constitution, if such tax rate does not exceed
23 the highest tax rate in effect subsequent to the 1980 tax
24 year. This is the maximum tax rate that may be levied,
25 unless a higher tax rate ceiling is approved by voters of
26 the political subdivision as provided in this section;

27 (4) "Tax revenue", when referring to the previous
28 year, means the actual receipts from ad valorem levies on
29 all classes of property, including state-assessed property,
30 in the immediately preceding fiscal year of the political
31 subdivision, plus an allowance for taxes billed but not
32 collected in the fiscal year and plus an additional
33 allowance for the revenue which would have been collected
34 from property which was annexed by such political
35 subdivision but which was not previously used in determining
36 tax revenue pursuant to this section. The term "tax
37 revenue" shall not include any receipts from ad valorem
38 levies on any property of a railroad corporation or a public
39 utility, as these terms are defined in section 386.020,
40 which were assessed by the assessor of a county or city in
41 the previous year but are assessed by the state tax
42 commission in the current year. All school districts and
43 those counties levying sales taxes pursuant to chapter 67
44 shall include in the calculation of tax revenue an amount
45 equivalent to that by which they reduced property tax levies
46 as a result of sales tax pursuant to section 67.505 and
47 section 164.013 or as excess home dock city or county fees
48 as provided in subsection 4 of section 313.820 in the
49 immediately preceding fiscal year but not including any
50 amount calculated to adjust for prior years. For purposes

51 of political subdivisions which were authorized to levy a
52 tax in the prior year but which did not levy such tax or
53 levied a reduced rate, the term "tax revenue", as used in
54 relation to the revision of tax levies mandated by law,
55 shall mean the revenues equal to the amount that would have
56 been available if the voluntary rate reduction had not been
57 made.

58 2. Whenever changes in assessed valuation are entered
59 in the assessor's books for any personal property, in the
60 aggregate, or for any subclass of real property as such
61 subclasses are established in Section 4(b) of Article X of
62 the Missouri Constitution and defined in section 137.016,
63 the county clerk in all counties and the assessor of St.
64 Louis City shall notify each political subdivision wholly or
65 partially within the county or St. Louis City of the change
66 in valuation of each subclass of real property,
67 individually, and personal property, in the aggregate,
68 exclusive of new construction and improvements. All
69 political subdivisions shall immediately revise the
70 applicable rates of levy for each purpose for each subclass
71 of real property, individually, and personal property, in
72 the aggregate, for which taxes are levied to the extent
73 necessary to produce from all taxable property, exclusive of
74 new construction and improvements, substantially the same
75 amount of tax revenue as was produced in the previous year
76 for each subclass of real property, individually, and
77 personal property, in the aggregate, except that the rate
78 shall not exceed the greater of the most recent voter-
79 approved rate or the most recent voter-approved rate as
80 adjusted under subdivision (2) of subsection 5 of this
81 section. Any political subdivision that has received
82 approval from voters for a tax increase after August 27,

83 2008, may levy a rate to collect substantially the same
84 amount of tax revenue as the amount of revenue that would
85 have been derived by applying the voter-approved increased
86 tax rate ceiling to the total assessed valuation of the
87 political subdivision as most recently certified by the city
88 or county clerk on or before the date of the election in
89 which such increase is approved, increased by the percentage
90 increase in the consumer price index, as provided by law,
91 except that the rate shall not exceed the greater of the
92 most recent voter-approved rate or the most recent voter-
93 approved rate as adjusted under subdivision (2) of
94 subsection 5 of this section. Such tax revenue shall not
95 include any receipts from ad valorem levies on any real
96 property which was assessed by the assessor of a county or
97 city in such previous year but is assessed by the assessor
98 of a county or city in the current year in a different
99 subclass of real property. Where the taxing authority is a
100 school district for the purposes of revising the applicable
101 rates of levy for each subclass of real property, the tax
102 revenues from state-assessed railroad and utility property
103 shall be apportioned and attributed to each subclass of real
104 property based on the percentage of the total assessed
105 valuation of the county that each subclass of real property
106 represents in the current taxable year. As provided in
107 Section 22 of Article X of the constitution, a political
108 subdivision may also revise each levy to allow for
109 inflationary assessment growth occurring within the
110 political subdivision. The inflationary growth factor for
111 any such subclass of real property or personal property
112 shall be limited to the actual assessment growth in such
113 subclass or class, exclusive of new construction and
114 improvements, and exclusive of the assessed value on any

115 real property which was assessed by the assessor of a county
116 or city in the current year in a different subclass of real
117 property, but not to exceed the consumer price index or five
118 percent, whichever is lower. Should the tax revenue of a
119 political subdivision from the various tax rates determined
120 in this subsection be different than the tax revenue that
121 would have been determined from a single tax rate as
122 calculated pursuant to the method of calculation in this
123 subsection prior to January 1, 2003, then the political
124 subdivision shall revise the tax rates of those subclasses
125 of real property, individually, and/or personal property, in
126 the aggregate, in which there is a tax rate reduction,
127 pursuant to the provisions of this subsection. Such
128 revision shall yield an amount equal to such difference and
129 shall be apportioned among such subclasses of real property,
130 individually, and/or personal property, in the aggregate,
131 based on the relative assessed valuation of the class or
132 subclasses of property experiencing a tax rate reduction.
133 Such revision in the tax rates of each class or subclass
134 shall be made by computing the percentage of current year
135 adjusted assessed valuation of each class or subclass with a
136 tax rate reduction to the total current year adjusted
137 assessed valuation of the class or subclasses with a tax
138 rate reduction, multiplying the resulting percentages by the
139 revenue difference between the single rate calculation and
140 the calculations pursuant to this subsection and dividing by
141 the respective adjusted current year assessed valuation of
142 each class or subclass to determine the adjustment to the
143 rate to be levied upon each class or subclass of property.
144 The adjustment computed herein shall be multiplied by one
145 hundred, rounded to four decimals in the manner provided in
146 this subsection, and added to the initial rate computed for

147 each class or subclass of property. For school districts
148 that levy separate tax rates on each subclass of real
149 property and personal property in the aggregate, if voters
150 approved a ballot before January 1, 2011, that presented
151 separate stated tax rates to be applied to the different
152 subclasses of real property and personal property in the
153 aggregate, or increases the separate rates that may be
154 levied on the different subclasses of real property and
155 personal property in the aggregate by different amounts, the
156 tax rate that shall be used for the single tax rate
157 calculation shall be a blended rate, calculated in the
158 manner provided under subdivision (1) of subsection 6 of
159 this section. Notwithstanding any provision of this
160 subsection to the contrary, no revision to the rate of levy
161 for personal property shall cause such levy to increase over
162 the levy for personal property from the prior year.

163 3. (1) Where the taxing authority is a school
164 district, it shall be required to revise the rates of levy
165 to the extent necessary to produce from all taxable
166 property, including state-assessed railroad and utility
167 property, which shall be separately estimated in addition to
168 other data required in complying with section 164.011,
169 substantially the amount of tax revenue permitted in this
170 section. In the year following tax rate reduction, the tax
171 rate ceiling may be adjusted to offset such district's
172 reduction in the apportionment of state school moneys due to
173 its reduced tax rate. However, in the event any school
174 district, in calculating a tax rate ceiling pursuant to this
175 section, requiring the estimating of effects of state-
176 assessed railroad and utility valuation or loss of state
177 aid, discovers that the estimates used result in receipt of
178 excess revenues, which would have required a lower rate if

179 the actual information had been known, the school district
180 shall reduce the tax rate ceiling in the following year to
181 compensate for the excess receipts, and the recalculated
182 rate shall become the tax rate ceiling for purposes of this
183 section.

184 (2) For any political subdivision which experiences a
185 reduction in the amount of assessed valuation relating to a
186 prior year, due to decisions of the state tax commission or
187 a court pursuant to sections 138.430 to 138.433, or due to
188 clerical errors or corrections in the calculation or
189 recordation of any assessed valuation:

190 (a) Such political subdivision may revise the tax rate
191 ceiling for each purpose it levies taxes to compensate for
192 the reduction in assessed value occurring after the
193 political subdivision calculated the tax rate ceiling for
194 the particular subclass of real property or for personal
195 property, in the aggregate, in a prior year. Such revision
196 by the political subdivision shall be made at the time of
197 the next calculation of the tax rate for the particular
198 subclass of real property or for personal property, in the
199 aggregate, after the reduction in assessed valuation has
200 been determined and shall be calculated in a manner that
201 results in the revised tax rate ceiling being the same as it
202 would have been had the corrected or finalized assessment
203 been available at the time of the prior calculation;

204 (b) In addition, for up to three years following the
205 determination of the reduction in assessed valuation as a
206 result of circumstances defined in this subdivision, such
207 political subdivision may levy a tax rate for each purpose
208 it levies taxes above the revised tax rate ceiling provided
209 in paragraph (a) of this subdivision to recoup any revenues
210 it was entitled to receive had the corrected or finalized

211 assessment been available at the time of the prior
212 calculation.

213 4. (1) In order to implement the provisions of this
214 section and Section 22 of Article X of the Constitution of
215 Missouri, the term improvements shall apply to both real and
216 personal property. In order to determine the value of new
217 construction and improvements, each county assessor shall
218 maintain a record of real property valuations in such a
219 manner as to identify each year the increase in valuation
220 for each political subdivision in the county as a result of
221 new construction and improvements. The value of new
222 construction and improvements shall include the additional
223 assessed value of all improvements or additions to real
224 property which were begun after and were not part of the
225 prior year's assessment, except that the additional assessed
226 value of all improvements or additions to real property
227 which had been totally or partially exempt from ad valorem
228 taxes pursuant to sections 99.800 to 99.865, sections
229 135.200 to 135.255, and section 353.110 shall be included in
230 the value of new construction and improvements when the
231 property becomes totally or partially subject to assessment
232 and payment of all ad valorem taxes. **Except for increases**
233 **in the assessed value of motor vehicles as determined**
234 **pursuant to subsection 9 of section 137.115,** the aggregate
235 increase in valuation of personal property for the current
236 year over that of the previous year is the equivalent of the
237 new construction and improvements factor for personal
238 property. **Any increase in the value of a motor vehicle from**
239 **a previous year's value as determined pursuant to subsection**
240 **9 of section 137.115 shall not be considered new**
241 **construction and improvements.** Notwithstanding any opt-out
242 implemented pursuant to subsection 14 of section 137.115,

243 the assessor shall certify the amount of new construction
244 and improvements and the amount of assessed value on any
245 real property which was assessed by the assessor of a county
246 or city in such previous year but is assessed by the
247 assessor of a county or city in the current year in a
248 different subclass of real property separately for each of
249 the three subclasses of real property for each political
250 subdivision to the county clerk in order that political
251 subdivisions shall have this information for the purpose of
252 calculating tax rates pursuant to this section and Section
253 22, Article X, Constitution of Missouri. In addition, the
254 state tax commission shall certify each year to each county
255 clerk the increase in the general price level as measured by
256 the Consumer Price Index for All Urban Consumers for the
257 United States, or its successor publications, as defined and
258 officially reported by the United States Department of
259 Labor, or its successor agency. The state tax commission
260 shall certify the increase in such index on the latest
261 twelve-month basis available on February first of each year
262 over the immediately preceding prior twelve-month period in
263 order that political subdivisions shall have this
264 information available in setting their tax rates according
265 to law and Section 22 of Article X of the Constitution of
266 Missouri. For purposes of implementing the provisions of
267 this section and Section 22 of Article X of the Missouri
268 Constitution, the term "property" means all taxable
269 property, including state-assessed property.

270 (2) Each political subdivision required to revise
271 rates of levy pursuant to this section or Section 22 of
272 Article X of the Constitution of Missouri shall calculate
273 each tax rate it is authorized to levy and, in establishing
274 each tax rate, shall consider each provision for tax rate

275 revision provided in this section and Section 22 of Article
276 X of the Constitution of Missouri, separately and without
277 regard to annual tax rate reductions provided in section
278 67.505 and section 164.013. Each political subdivision
279 shall set each tax rate it is authorized to levy using the
280 calculation that produces the lowest tax rate ceiling. It
281 is further the intent of the general assembly, pursuant to
282 the authority of Section 10(c) of Article X of the
283 Constitution of Missouri, that the provisions of such
284 section be applicable to tax rate revisions mandated
285 pursuant to Section 22 of Article X of the Constitution of
286 Missouri as to reestablishing tax rates as revised in
287 subsequent years, enforcement provisions, and other
288 provisions not in conflict with Section 22 of Article X of
289 the Constitution of Missouri. Annual tax rate reductions
290 provided in section 67.505 and section 164.013 shall be
291 applied to the tax rate as established pursuant to this
292 section and Section 22 of Article X of the Constitution of
293 Missouri, unless otherwise provided by law.

294 5. (1) In all political subdivisions, the tax rate
295 ceiling established pursuant to this section shall not be
296 increased unless approved by a vote of the people. Approval
297 of the higher tax rate shall be by at least a majority of
298 votes cast. When a proposed higher tax rate requires
299 approval by more than a simple majority pursuant to any
300 provision of law or the constitution, the tax rate increase
301 must receive approval by at least the majority required.

302 (2) When voters approve an increase in the tax rate,
303 the amount of the increase shall be added to the tax rate
304 ceiling as calculated pursuant to this section to the extent
305 the total rate does not exceed any maximum rate prescribed
306 by law. If a ballot question presents a stated tax rate for

307 approval rather than describing the amount of increase in
308 the question, the stated tax rate approved shall be adjusted
309 as provided in this section and, so adjusted, shall be the
310 current tax rate ceiling. The increased tax rate ceiling as
311 approved shall be adjusted such that when applied to the
312 current total assessed valuation of the political
313 subdivision, excluding new construction and improvements
314 since the date of the election approving such increase, the
315 revenue derived from the adjusted tax rate ceiling is equal
316 to the sum of: the amount of revenue which would have been
317 derived by applying the voter-approved increased tax rate
318 ceiling to total assessed valuation of the political
319 subdivision, as most recently certified by the city or
320 county clerk on or before the date of the election in which
321 such increase is approved, increased by the percentage
322 increase in the consumer price index, as provided by law.
323 Such adjusted tax rate ceiling may be applied to the total
324 assessed valuation of the political subdivision at the
325 setting of the next tax rate. If a ballot question presents
326 a phased-in tax rate increase, upon voter approval, each tax
327 rate increase shall be adjusted in the manner prescribed in
328 this section to yield the sum of: the amount of revenue
329 that would be derived by applying such voter-approved
330 increased rate to the total assessed valuation, as most
331 recently certified by the city or county clerk on or before
332 the date of the election in which such increase was
333 approved, increased by the percentage increase in the
334 consumer price index, as provided by law, from the date of
335 the election to the time of such increase and, so adjusted,
336 shall be the current tax rate ceiling.

337 (3) The governing body of any political subdivision
338 may levy a tax rate lower than its tax rate ceiling and may,

339 in a nonreassessment year, increase that lowered tax rate to
340 a level not exceeding the tax rate ceiling without voter
341 approval in the manner provided under subdivision (4) of
342 this subsection. Nothing in this section shall be construed
343 as prohibiting a political subdivision from voluntarily
344 levying a tax rate lower than that which is required under
345 the provisions of this section or from seeking voter
346 approval of a reduction to such political subdivision's tax
347 rate ceiling.

348 (4) In a year of general reassessment, a governing
349 body whose tax rate is lower than its tax rate ceiling shall
350 revise its tax rate pursuant to the provisions of subsection
351 4 of this section as if its tax rate was at the tax rate
352 ceiling. In a year following general reassessment, if such
353 governing body intends to increase its tax rate, the
354 governing body shall conduct a public hearing, and in a
355 public meeting it shall adopt an ordinance, resolution, or
356 policy statement justifying its action prior to setting and
357 certifying its tax rate. The provisions of this subdivision
358 shall not apply to any political subdivision which levies a
359 tax rate lower than its tax rate ceiling solely due to a
360 reduction required by law resulting from sales tax
361 collections. The provisions of this subdivision shall not
362 apply to any political subdivision which has received voter
363 approval for an increase to its tax rate ceiling subsequent
364 to setting its most recent tax rate.

365 6. (1) For the purposes of calculating state aid for
366 public schools pursuant to section 163.031, each taxing
367 authority which is a school district shall determine its
368 proposed tax rate as a blended rate of the classes or
369 subclasses of property. Such blended rate shall be
370 calculated by first determining the total tax revenue of the

371 property within the jurisdiction of the taxing authority,
372 which amount shall be equal to the sum of the products of
373 multiplying the assessed valuation of each class and
374 subclass of property by the corresponding tax rate for such
375 class or subclass, then dividing the total tax revenue by
376 the total assessed valuation of the same jurisdiction, and
377 then multiplying the resulting quotient by a factor of one
378 hundred. Where the taxing authority is a school district,
379 such blended rate shall also be used by such school district
380 for calculating revenue from state-assessed railroad and
381 utility property as defined in chapter 151 and for
382 apportioning the tax rate by purpose.

383 (2) Each taxing authority proposing to levy a tax rate
384 in any year shall notify the clerk of the county commission
385 in the county or counties where the tax rate applies of its
386 tax rate ceiling and its proposed tax rate. Each taxing
387 authority shall express its proposed tax rate in a fraction
388 equal to the nearest one-tenth of a cent, unless its
389 proposed tax rate is in excess of one dollar, then one/one-
390 hundredth of a cent. If a taxing authority shall round to
391 one/one-hundredth of a cent, it shall round up a fraction
392 greater than or equal to five/one-thousandth of one cent to
393 the next higher one/one-hundredth of a cent; if a taxing
394 authority shall round to one-tenth of a cent, it shall round
395 up a fraction greater than or equal to five/one-hundredths
396 of a cent to the next higher one-tenth of a cent. Any
397 taxing authority levying a property tax rate shall provide
398 data, in such form as shall be prescribed by the state
399 auditor by rule, substantiating such tax rate complies with
400 Missouri law. All forms for the calculation of rates
401 pursuant to this section shall be promulgated as a rule and
402 shall not be incorporated by reference. The state auditor

403 shall promulgate rules for any and all forms for the
404 calculation of rates pursuant to this section which do not
405 currently exist in rule form or that have been incorporated
406 by reference. In addition, each taxing authority proposing
407 to levy a tax rate for debt service shall provide data, in
408 such form as shall be prescribed by the state auditor by
409 rule, substantiating the tax rate for debt service complies
410 with Missouri law. A tax rate proposed for annual debt
411 service requirements will be prima facie valid if, after
412 making the payment for which the tax was levied, bonds
413 remain outstanding and the debt fund reserves do not exceed
414 the following year's payments. The county clerk shall keep
415 on file and available for public inspection all such
416 information for a period of three years. The clerk shall,
417 within three days of receipt, forward a copy of the notice
418 of a taxing authority's tax rate ceiling and proposed tax
419 rate and any substantiating data to the state auditor. The
420 state auditor shall, within fifteen days of the date of
421 receipt, examine such information and return to the county
422 clerk his or her findings as to compliance of the tax rate
423 ceiling with this section and as to compliance of any
424 proposed tax rate for debt service with Missouri law. If
425 the state auditor believes that a taxing authority's
426 proposed tax rate does not comply with Missouri law, then
427 the state auditor's findings shall include a recalculated
428 tax rate, and the state auditor may request a taxing
429 authority to submit documentation supporting such taxing
430 authority's proposed tax rate. The county clerk shall
431 immediately forward a copy of the auditor's findings to the
432 taxing authority and shall file a copy of the findings with
433 the information received from the taxing authority. The
434 taxing authority shall have fifteen days from the date of

435 receipt from the county clerk of the state auditor's
436 findings and any request for supporting documentation to
437 accept or reject in writing the rate change certified by the
438 state auditor and to submit all requested information to the
439 state auditor. A copy of the taxing authority's acceptance
440 or rejection and any information submitted to the state
441 auditor shall also be mailed to the county clerk. If a
442 taxing authority rejects a rate change certified by the
443 state auditor and the state auditor does not receive
444 supporting information which justifies the taxing
445 authority's original or any subsequent proposed tax rate,
446 then the state auditor shall refer the perceived violations
447 of such taxing authority to the attorney general's office
448 and the attorney general is authorized to obtain injunctive
449 relief to prevent the taxing authority from levying a
450 violative tax rate.

451 (3) In the event that the taxing authority incorrectly
452 completes the forms created and promulgated under
453 subdivision (2) of this subsection, or makes a clerical
454 error, the taxing authority may submit amended forms with an
455 explanation for the needed changes. If such amended forms
456 are filed under regulations prescribed by the state auditor,
457 the state auditor shall take into consideration such amended
458 forms for the purposes of this subsection.

459 7. No tax rate shall be extended on the tax rolls by
460 the county clerk unless the political subdivision has
461 complied with the foregoing provisions of this section.

462 8. Whenever a taxpayer has cause to believe that a
463 taxing authority has not complied with the provisions of
464 this section, the taxpayer may make a formal complaint with
465 the prosecuting attorney of the county. Where the
466 prosecuting attorney fails to bring an action within ten

467 days of the filing of the complaint, the taxpayer may bring
468 a civil action pursuant to this section and institute an
469 action as representative of a class of all taxpayers within
470 a taxing authority if the class is so numerous that joinder
471 of all members is impracticable, if there are questions of
472 law or fact common to the class, if the claims or defenses
473 of the representative parties are typical of the claims or
474 defenses of the class, and if the representative parties
475 will fairly and adequately protect the interests of the
476 class. In any class action maintained pursuant to this
477 section, the court may direct to the members of the class a
478 notice to be published at least once each week for four
479 consecutive weeks in a newspaper of general circulation
480 published in the county where the civil action is commenced
481 and in other counties within the jurisdiction of a taxing
482 authority. The notice shall advise each member that the
483 court will exclude him or her from the class if he or she so
484 requests by a specified date, that the judgment, whether
485 favorable or not, will include all members who do not
486 request exclusion, and that any member who does not request
487 exclusion may, if he or she desires, enter an appearance.
488 In any class action brought pursuant to this section, the
489 court, in addition to the relief requested, shall assess
490 against the taxing authority found to be in violation of
491 this section the reasonable costs of bringing the action,
492 including reasonable attorney's fees, provided no attorney's
493 fees shall be awarded any attorney or association of
494 attorneys who receive public funds from any source for their
495 services. Any action brought pursuant to this section shall
496 be set for hearing as soon as practicable after the cause is
497 at issue.

498 9. If in any action, including a class action, the
499 court issues an order requiring a taxing authority to revise
500 the tax rates as provided in this section or enjoins a
501 taxing authority from the collection of a tax because of its
502 failure to revise the rate of levy as provided in this
503 section, any taxpayer paying his or her taxes when an
504 improper rate is applied has erroneously paid his or her
505 taxes in part, whether or not the taxes are paid under
506 protest as provided in section 139.031 or otherwise
507 contested. The part of the taxes paid erroneously is the
508 difference in the amount produced by the original levy and
509 the amount produced by the revised levy. The township or
510 county collector of taxes or the collector of taxes in any
511 city shall refund the amount of the tax erroneously paid.
512 The taxing authority refusing to revise the rate of levy as
513 provided in this section shall make available to the
514 collector all funds necessary to make refunds pursuant to
515 this subsection. No taxpayer shall receive any interest on
516 any money erroneously paid by him or her pursuant to this
517 subsection. Effective in the 1994 tax year, nothing in this
518 section shall be construed to require a taxing authority to
519 refund any tax erroneously paid prior to or during the third
520 tax year preceding the current tax year.

521 10. Any rule or portion of a rule, as that term is
522 defined in section 536.010, that is created under the
523 authority delegated in this section shall become effective
524 only if it complies with and is subject to all of the
525 provisions of chapter 536 and, if applicable, section
526 536.028. This section and chapter 536 are nonseverable and
527 if any of the powers vested with the general assembly
528 pursuant to chapter 536 to review, to delay the effective
529 date, or to disapprove and annul a rule are subsequently

530 held unconstitutional, then the grant of rulemaking
531 authority and any rule proposed or adopted after August 28,
532 2004, shall be invalid and void.

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