

SENATE SUBSTITUTE
FOR
SENATE BILL NO. 900
AN ACT

To repeal sections 221.105, 221.400, 221.402, 221.405, 221.407, and 221.410, RSMo, and to enact in lieu thereof six new sections relating to jails, with an emergency clause for certain sections.

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

Section A. Sections 221.105, 221.400, 221.402, 221.405, 221.407, and 221.410, RSMo, are repealed and six new sections enacted in lieu thereof, to be known as sections 221.400, 221.402, 221.405, 221.407, 221.410, and 550.320, to read as follows:

221.400. 1. Any two or more contiguous counties within the state may form an agreement to establish a regional jail district. The district shall have a boundary which includes the areas within each member county, and it shall be named the " Regional Jail District". Such regional jail districts may contract to carry out the mission of the commission and the regional jail district.

2. The county commission of each county desiring to join the district shall approve an ordinance, order, or resolution to join the district and shall approve the agreement which specifies the duties of each county within the district.

3. If any county wishes to join a district which has already been established under this section, the agreement shall be rewritten and reapproved by each member county. If the district already levies a sales tax pursuant to section 221.407, the county desiring to join shall have approved the levy of the district sales tax in the county pursuant to

19 subsection 3 of section 221.407, and the rewritten agreement
20 shall be provided.

21 4. The agreement which specifies the duties of each
22 county shall contain the following:

- 23 (1) The name of the district;
- 24 (2) The names of the counties within the district;
- 25 (3) The formula for calculating each county's
26 contribution to the costs of the district;
- 27 (4) The types of prisoners which the regional jail may
28 house, limited to prisoners which may be transferred to
29 counties under state law;
- 30 (5) The methods and powers which may be used for
31 constructing, leasing or financing a regional jail;
- 32 (6) The duties of the director of the regional jail;
- 33 (7) The timing and procedures for approval of the
34 regional jail district's annual budget by the regional jail
35 commission; and
- 36 (8) The delegation, if any, by the member counties to
37 the regional jail district of the power of eminent domain.

38 5. Any county, city, town or village may contract with
39 a regional jail commission for the holding of its prisoners.

221.402. In addition to the powers granted to the
2 district by its member counties under the agreement, the
3 district has all the powers necessary or appropriate to
4 carry out its purposes, including, but not limited to, the
5 following:

- 6 (1) To adopt bylaws and rules for the regulation of
7 its affairs and the conduct of its business;
- 8 (2) To adopt an official seal;
- 9 (3) To maintain an office at such place or places in
10 one or more of the member counties as the commission may
11 designate;
- 12 (4) To sue and be sued;

13 (5) To make and execute leases, contracts, releases,
14 compromises and other instruments necessary or convenient
15 for the exercise of its powers or to carry out its purposes;

16 (6) To acquire, construct, reconstruct, repair, alter,
17 improve, [and] equip, extend, and maintain jail facilities;

18 (7) To sell, lease, assign, mortgage, grant a security
19 interest in, exchange, donate and convey any or all of its
20 properties whenever the commission finds such action to be
21 in furtherance of the district's purposes;

22 (8) To collect rentals, fees and other charges in
23 connection with its services or for the use of any
24 facilities;

25 (9) To issue its bonds, notes or other obligations for
26 any of its corporate purposes and to refund the same.

221.405. 1. Any regional jail district created
2 pursuant to section 221.400 shall be governed by a
3 commission. The commission shall be composed of the sheriff
4 and presiding commissioner from each county within the
5 district.

6 2. Each commissioner shall serve during his tenure as
7 sheriff or as presiding commissioner.

8 3. Commissioners shall serve until their successors in
9 their county offices have [been duly appointed] assumed
10 office. Vacancies on the commission shall be filled by the
11 succeeding sheriff or presiding commissioner for the
12 remainder of the term.

13 4. Commissioners shall serve without compensation,
14 except that they shall be reimbursed by the district for
15 their reasonable and necessary expenses in the performance
16 of their duties.

17 5. A jail commissioner from each county in the
18 district shall present a proposed budget to the county
19 commission.

221.407. 1. The commission of any regional jail district may impose, by order, a sales tax in the amount of [one-eighth of] up to one percent[, one-fourth of one percent, three-eighths of one percent, or one-half of one percent] on all retail sales made in such region which are subject to taxation pursuant to the provisions of sections 144.010 to 144.525 for the purpose of providing jail services [and court], facilities, and equipment for such region. The tax authorized by this section shall be in addition to any and all other sales taxes allowed by law, except that no order imposing a sales tax pursuant to this section shall be effective unless the commission submits to the voters of the district, on any election date authorized in chapter 115, a proposal to authorize the commission to impose a tax.

2. The ballot of submission shall contain, but need not be limited to, the following language:

Shall the _____ (District name) regional jail district [of _____ (counties' names)] impose a region-wide sales tax of _____ (insert amount) for the purpose of providing jail services [and court], facilities, and equipment for the region?

YES NO

If you are in favor of the question, place an "X" in the box opposite "YES". If you are opposed to the question, place an "X" in the box opposite "NO".

If a majority of the votes cast on the proposal by the qualified voters of the district voting thereon are in favor of the proposal, then the order and any amendment to such order shall be in effect on the first day of the second quarter immediately following the election approving the proposal. If the proposal receives less than the required

34 majority, the commission shall have no power to impose the
35 sales tax authorized pursuant to this section unless and
36 until the commission shall again have submitted another
37 proposal to authorize the commission to impose the sales tax
38 authorized by this section and such proposal is approved by
39 the [required] majority of the qualified voters of the
40 district voting on such proposal [; however, in no event
41 shall a proposal pursuant to this section be submitted to
42 the voters sooner than twelve months from the date of the
43 last submission of a proposal pursuant to this section].

44 3. In the case of a county attempting to join an
45 existing district that levies a sales tax pursuant to
46 subsection 1 of this section, such joining with the district
47 shall not become effective until the approval of the voters
48 to levy the district sales tax in the county attempting to
49 join the district has been obtained. The election shall be
50 called by the county commission of the county attempting to
51 join the district, and the district shall by ordinance or
52 order provide that the sales tax shall be levied in the
53 joining county, subject to approval of the county voters as
54 herein provided. The ballot of submission shall contain,
55 but need not be limited to, the following language:

56 Shall the (District name) extend
57 its regional jail district sales tax of
58 (insert amount) to the boundaries of
59 (name of joining county) for the purpose of
60 providing jail services, facilities, and equipment
61 for the region?

62 YES NO

63 If you are in favor of the question, place an "X"
64 in the box opposite "YES". If you are opposed to
65 the question, place an "X" in the box opposite
66 "NO".

67 If a majority of the votes cast on the proposal by the
68 qualified voters of the county attempting to join the
69 district voting thereon are in favor of the proposal, then
70 the tax shall be in effect on the first day of the second
71 quarter immediately following the election approving the
72 proposal, the county shall have been deemed to have joined
73 the district pursuant to a rewritten agreement as provided
74 in subsection 3 of section 221.400, and the order of the
75 commission levying the tax shall also become effective as to
76 the joining county on said date. If the proposal receives
77 less than the required majority, the district shall have no
78 power to impose the sales tax authorized pursuant to this
79 section, and the county attempting to join the district
80 shall not be permitted to do so, unless and until the county
81 commission of the county attempting to join the district
82 shall again have submitted another proposal to authorize the
83 imposition of the sales tax authorized by this section and
84 such proposal is approved by the majority of the qualified
85 voters of the county attempting to join the district voting
86 on such proposal.

87 4. All revenue received by a district from the tax
88 authorized pursuant to this section shall be deposited in a
89 special trust fund and shall be used solely for providing
90 jail services [and court], facilities and equipment for such
91 district for so long as the tax shall remain in effect.

92 [4.] 5. Once the tax authorized by this section is
93 abolished or terminated by any means, all funds remaining in
94 the special trust fund shall be used solely for providing
95 jail services [and court], facilities and equipment for the
96 district. Any funds in such special trust fund which are
97 not needed for current expenditures may be invested by the
98 commission in accordance with applicable laws relating to
99 the investment of other county funds.

100 [5.] 6. All sales taxes collected by the director of
101 revenue pursuant to this section on behalf of any district,
102 less one percent for cost of collection which shall be
103 deposited in the state's general revenue fund after payment
104 of premiums for surety bonds as provided in section 32.087,
105 shall be deposited in a special trust fund, which is hereby
106 created, to be known as the "Regional Jail District Sales
107 Tax Trust Fund". The moneys in the regional jail district
108 sales tax trust fund shall not be deemed to be state funds
109 and shall not be commingled with any funds of the state.
110 The director of revenue shall keep accurate records of the
111 amount of money in the trust fund which was collected in
112 each district imposing a sales tax pursuant to this section,
113 and the records shall be open to the inspection of officers
114 of each member county and the public. Not later than the
115 tenth day of each month the director of revenue shall
116 distribute all moneys deposited in the trust fund during the
117 preceding month to the district which levied the tax. Such
118 funds shall be deposited with the treasurer of each such
119 district, and all expenditures of funds arising from the
120 regional jail district sales tax trust fund shall be paid
121 pursuant to an appropriation adopted by the commission and
122 shall be approved by the commission. Expenditures may be
123 made from the fund for any [function authorized in the order
124 adopted by the commission submitting the regional jail
125 district tax to the voters] of the district's authorized
126 purposes.

127 [6.] 7. The director of revenue may make refunds from
128 the amounts in the trust fund and credited to any district
129 for erroneous payments and overpayments made, and may redeem
130 dishonored checks and drafts deposited to the credit of such
131 districts. If any district abolishes the tax, the
132 commission shall notify the director of revenue of the

133 action at least ninety days prior to the effective date of
134 the repeal, and the director of revenue may order retention
135 in the trust fund, for a period of one year, of two percent
136 of the amount collected after receipt of such notice to
137 cover possible refunds or overpayment of the tax and to
138 redeem dishonored checks and drafts deposited to the credit
139 of such accounts. After one year has elapsed after the
140 effective date of abolition of the tax in such district, the
141 director of revenue shall remit the balance in the account
142 to the district and close the account of that district. The
143 director of revenue shall notify each district in each
144 instance of any amount refunded or any check redeemed from
145 receipts due the district.

146 [7.] 8. Except as provided in this section, all
147 provisions of sections 32.085 and 32.087 shall apply to the
148 tax imposed pursuant to this section.

149 [8. The provisions of this section shall expire
150 September 30, 2028.]

221.410. Except as provided in sections 221.400 to
2 221.420 the regional jail commission shall have the
3 following powers and duties:

4 (1) It shall implement the agreement approved by the
5 counties within the district under section 221.400;

6 (2) It shall determine the means to establish a
7 regional jail for the district;

8 (3) It shall appoint a director for the regional jail;

9 (4) It shall determine the initial budget for the
10 regional jail and shall approve, after a review and a
11 majority of the commissioners concurring therein, all
12 subsequent budgets, for which proposals may be submitted by
13 the director;

14 (5) It may determine the policies for the housing of
15 prisoners within the regional jail;

16 (6) It may buy, lease or sell real or personal
17 property for the purpose of establishing and maintaining a
18 regional jail, and it may contract with public or private
19 entities [for the planning and acquisition of a] to acquire,
20 construct, reconstruct, repair, alter, improve, equip, and
21 extend a regional jail;

22 (7) It may contract with [the department of
23 corrections and with cities and other counties in this
24 state] governmental entities, including, without limitation,
25 agencies and instrumentalities thereof, or private entities
26 for the housing of prisoners;

27 (8) It shall approve all positions to be created for
28 the purpose of administering the regional jail; and

29 (9) It shall approve a location for the regional jail
30 which is [generally central to] within the district.

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

3 (1) "Department", the department of corrections of the
4 state of Missouri;

5 (2) "Jail reimbursement", a daily per diem paid by the
6 state for the reimbursement of time spent in custody.

7 2. Notwithstanding any other provision of law to the
8 contrary, whenever any person is sentenced to a term of
9 imprisonment in a correctional center, the department shall
10 reimburse the county or city not within a county for the
11 days the person spent in custody at a per diem cost, subject
12 to appropriation, but not to exceed thirty-seven dollars and
13 fifty cents per day per offender. The jail reimbursement
14 shall be subject to review and approval of the department.
15 The state shall pay the costs when:

16 (1) A person is sentenced to a term of imprisonment as
17 authorized by chapter 558;

18 (2) A person is sentenced pursuant to section 559.115;

19 (3) A person has his or her probation or parole
20 revoked because the offender has, or allegedly has, violated
21 any condition of the offender's probation or parole, and
22 such probation or parole is a consequence of a violation of
23 the law, or the offender is a fugitive from the state or
24 otherwise held at the request of the department regardless
25 of whether or not a warrant has been issued; or

26 (4) A person has a period of detention imposed
27 pursuant to section 559.026.

28 3. When the final determination of any criminal
29 prosecution shall be such as to render the state liable for
30 costs under existing laws, it shall be the duty of the
31 sheriff to certify to the clerk of the county or the chief
32 executive officer of the city not within a county the total
33 number of days any offender who was a party in such case
34 remained in the jail. It shall then be the duty of the
35 county clerk or the chief executive officer of the city not
36 within the county to submit the total number of days spent
37 in custody to the department. The county clerk or chief
38 executive officer of the city not within the county may
39 submit claims to the department, no later than two years
40 from the date the claim became eligible for reimbursement.

41 4. The department shall determine if the expenses are
42 eligible pursuant to the provisions of this chapter and
43 remit any payment to the county or city not within a county
44 when the expenses are determined to be eligible. The
45 department shall establish, by rule, the process for
46 submission of claims. Any rule or portion of a rule, as
47 that term is defined in section 536.010, that is created
48 under the authority delegated in this section shall become
49 effective only if it complies with and is subject to all of
50 the provisions of chapter 536 and, if applicable, section
51 536.028. This section and chapter 536 are nonseverable and

52 if any of the powers vested with the general assembly
53 pursuant to chapter 536 to review, to delay the effective
54 date, or to disapprove and annul a rule are subsequently
55 held unconstitutional, then the grant of rulemaking
56 authority and any rule proposed or adopted after August 28,
57 2024, shall be invalid and void.

2 [221.105. 1. The governing body of any
3 county and of any city not within a county shall
4 fix the amount to be expended for the cost of
5 incarceration of prisoners confined in jails or
6 medium security institutions. The per diem cost
7 of incarceration of these prisoners chargeable
8 by the law to the state shall be determined,
9 subject to the review and approval of the
10 department of corrections.

11 2. When the final determination of any
12 criminal prosecution shall be such as to render
13 the state liable for costs under existing laws,
14 it shall be the duty of the sheriff to certify
15 to the clerk of the circuit court or court of
16 common pleas in which the case was determined
17 the total number of days any prisoner who was a
18 party in such case remained in the county jail.
19 It shall be the duty of the county commission to
20 supply the cost per diem for county prisons to
21 the clerk of the circuit court on the first day
22 of each year, and thereafter whenever the amount
23 may be changed. It shall then be the duty of
24 the clerk of the court in which the case was
25 determined to include in the bill of cost
26 against the state all fees which are properly
27 chargeable to the state. In any city not within
28 a county it shall be the duty of the
29 superintendent of any facility boarding
30 prisoners to certify to the chief executive
31 officer of such city not within a county the
32 total number of days any prisoner who was a
33 party in such case remained in such facility.
34 It shall be the duty of the superintendents of
35 such facilities to supply the cost per diem to
36 the chief executive officer on the first day of
37 each year, and thereafter whenever the amount
may be changed. It shall be the duty of the

38 chief executive officer to bill the state all
39 fees for boarding such prisoners which are
40 properly chargeable to the state. The chief
41 executive may by notification to the department
42 of corrections delegate such responsibility to
43 another duly sworn official of such city not
44 within a county. The clerk of the court of any
45 city not within a county shall not include such
46 fees in the bill of costs chargeable to the
47 state. The department of corrections shall
48 revise its criminal cost manual in accordance
49 with this provision.

50 3. Except as provided under subsection 6
51 of section 217.718, the actual costs chargeable
52 to the state, including those incurred for a
53 prisoner who is incarcerated in the county jail
54 because the prisoner's parole or probation has
55 been revoked or because the prisoner has, or
56 allegedly has, violated any condition of the
57 prisoner's parole or probation, and such parole
58 or probation is a consequence of a violation of
59 a state statute, or the prisoner is a fugitive
60 from the Missouri department of corrections or
61 otherwise held at the request of the Missouri
62 department of corrections regardless of whether
63 or not a warrant has been issued shall be the
64 actual cost of incarceration not to exceed:

65 (1) Until July 1, 1996, seventeen dollars
66 per day per prisoner;

67 (2) On and after July 1, 1996, twenty
68 dollars per day per prisoner;

69 (3) On and after July 1, 1997, up to
70 thirty-seven dollars and fifty cents per day per
71 prisoner, subject to appropriations.

72 4. The presiding judge of a judicial
73 circuit may propose expenses to be reimbursable
74 by the state on behalf of one or more of the
75 counties in that circuit. Proposed reimbursable
76 expenses may include pretrial assessment and
77 supervision strategies for defendants who are
78 ultimately eligible for state incarceration. A
79 county may not receive more than its share of
80 the amount appropriated in the previous fiscal
81 year, inclusive of expenses proposed by the
82 presiding judge. Any county shall convey such
83 proposal to the department, and any such

84 proposal presented by a presiding judge shall
85 include the documented agreement with the
86 proposal by the county governing body,
87 prosecuting attorney, at least one associate
88 circuit judge, and the officer of the county
89 responsible for custody or incarceration of
90 prisoners of the county represented in the
91 proposal. Any county that declines to convey a
92 proposal to the department, pursuant to the
93 provisions of this subsection, shall receive its
94 per diem cost of incarceration for all prisoners
95 chargeable to the state in accordance with the
96 provisions of subsections 1, 2, and 3 of this
97 section.]

Section B. Because of the immediate need for new and
2 enhanced jail facilities in the state of Missouri, the
3 repeal and reenactment of sections 221.400, 221.402,
4 221.405, 221.407, and 221.410 of this act is deemed
5 necessary for the immediate preservation of the public
6 health, welfare, peace, and safety, and is hereby declared
7 to be an emergency act within the meaning of the
8 constitution, and the repeal and reenactment of sections
9 221.400, 221.402, 221.405, 221.407, and 221.410 of this act
10 shall be in full force and effect upon its passage and
11 approval.