



March 17, 2009

THE GENERAL ASSEMBLY TAKES A BREAK WITH A BUDGET BATTLE LOOMING

The General Assembly adjourned last week for its scheduled spring break with the House of Representatives set to take up the state budget upon their return next week. The bill filing deadline for the Senate has passed, but the House has until April 1 to file bills. The material in this bulletin is a review of specific measures of interest and/or prominent county issues that we expect will be taken up during the second half of the legislative session. However, legislators have introduced over 1,800 measures thus far and there are literally hundreds of bills pending that would impact county government operations.

Lawmakers reconvene on Monday, March 23, one month before **MAC's April 20 Legislative Conference at the Capitol Plaza Hotel in Jefferson City**. For overnight accommodations, call the hotel at 573-635-1234. Registration fliers for our April 20 meeting will be mailed out this week. You can also visit www.mocounties.com and print off a copy from our homepage.

We have an exciting lineup of speakers and issues this year. Governor Jay Nixon is invited to speak, as well as Senate Pro Tem Charlie Shields and House Speaker Ron Richard. Sen. John Griesheimer and Rep. Jason Brown have also been asked to update the membership as the respective chairs of the Local Government Committees. Other scheduled speakers include State Treasurer Clint Zweifel on expanded loan programs for local governments, Rep. Bill Deeken on election bills, Rep. Tim Jones on Sunshine Law changes, and MoDOT Chief Engineer Kevin Keith on federal stimulus funding for transportation.

Appropriations – The various House appropriations committees have been working over the last several weeks to craft their own recommendations to Gov. Jay Nixon's proposed FY 2010 budget. Funding for many state programs has been slashed by the House Budget Committee but county appropriations have fared reasonably well so far. Last session, the General Assembly approved an additional 75-cent increase in prisoner per diem, which took the rate for FY '09 to \$22 a day. The governor did not recommend a per diem rate increase for FY '10. In light of what's happening with other line items, we are pleased to report that the House Budget Committee did not reduce the per diem amount. Unfortunately, reimbursements to single court circuits for juvenile employees' salaries have been reduced by approximately 10 percent. This is due to a combination of a \$379,000 decrease in funding proposed by the Governor and an additional \$346,000 cut by the House Budget Committee. The state also reimburses a small portion of the costs of maintaining property assessments. Gov. Nixon proposed that the level that the state reimburses assessment maintenance costs would remain the same as FY '09. However, this item did see a 10 percent decrease (as did many, many others) during early deliberations. Thanks to the efforts of Rep. Charlie Schlottach and others on the Budget Committee, that 10 percent reduction was restored and assessment maintenance funding remains intact. Juvenile per diem also remains at the Governor's recommended level of \$14 per day. Budget deliberations are certain to be contentious up until the May 8 deadline for passage. It will take a concerted effort to hold on to the state dollars that are now being proposed.

Property Tax Reform – SS/SCS/SB 174 (Griesheimer) modifies laws regarding property taxation by requiring tax rate rollbacks by school districts in reassessment years. For tax year 2009, political subdivisions are authorized to levy a property tax rate sufficient to generate as much revenue as was realized in the 2007 tax year, excluding new construction and improvements as long as such rate does not exceed the greater of the rate in effect for the 1984 tax year or the most recent voter approved rate. The timeline for the assessment, levy and appeal of property taxes is changed with regard to certain counties. The bill modifies laws regarding the payment of taxes in dispute. Under current law, for the homestead preservation tax credit the homestead exemption limit will be based on the increase in tax liability from the base year to the year prior to the application year for all applications for credits filed between December 31, 2008, and December 31, 2011. This bill modifies the term base year with regard to new homeowners who are approved for the first time after satisfying the three year ownership requirement so that the base year for such taxpayers will be the year following the first year in which such taxpayer acquired ownership of the homestead. All charter counties are allowed to opt-out of the requirement that they must provide taxpayers with notices of projected tax liability for the 2011 reassessment year. The effective date for all other counties for the projected tax liability notice requirement is moved back to January 1, 2013. Assessors and collectors are required to submit estimates of the costs necessary to comply with the projected tax liability notice requirement to the state tax commission. The bill creates a fund to receive appropriations and allocate moneys to assessors and collectors to offset the costs of implementing the projected tax liability notice requirements. The bill repeals the duty of the state tax commission to develop software programs to produce projected tax liability notices. The Senate Ways and Means Committee voted the bill "Do Pass" on February 18. The Senate debated it on both March 3 and March 10. Further revisions are certain as the debate continues.

HCS/HB 591 (Sutherland) authorizes voters to petition for an election to lower the tax rate ceiling of a political subdivision when at least 10 percent of the registered voters within the taxing authority's boundaries sign the petition. If at least 60 percent of the votes cast are in favor of lowering the ceiling, the lowered tax rate ceiling will

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become effective. The petition to lower the tax rate ceiling cannot include debt service levies. The House Ways and Means Committee voted the bill "Do Pass" on March 12.

SB 99 (Cunningham) establishes the Predictable Property Tax Act, which, beginning August 28, 2009, freezes the assessed valuation of real property at the 2006 assessed value or at the acquisition price of property purchased after the effective date of the bill and sets the tax rate at one percent. The assessment can be adjusted for cost-of-living increases up to two percent annually. Real property tax revenues are limited to the 2006 real property tax revenues for each county, excluding new construction, improvements, and cost-of-living increases. If the market value of a home declines, the assessed valuation must decrease. The limitations will not apply to any voter-approved tax increase, bond indebtedness, or special assessment. Any taxpayer age 55 or older can transfer the assessed value of his or her current home to any replacement home of equal or lesser value. The bill allows the transfer of property up to \$1 million in assessed value to children or grandchildren without reassessment. The provisions of this bill will only become effective upon voter approval of SJR 4.

Enhanced 9-1-1 – SB 119 (Griesheimer) changes the law regarding enhanced 9-1-1 funding. Under current law, the Office of Administration is authorized to distribute funds from the wireless service provider enhanced 9-1-1 service fund to wireless service providers and public safety answering points based upon a formula established by the Office of Administration. Such formula may be based upon a variety of factors, but at least 10 percent of the funds must be distributed equally to all public safety answering points in the state. This bill requires the Office of Administration and the Director of the Department of Public Safety or his or her designee to establish the formula, removes the requirement that at least 10 percent of the funding be distributed equally among all public safety answering points in the state, and limits the number of public safety answering points which may receive funding based upon the classification of the county in which they are located.

This bill also authorizes the Office of Administration, upon voter approval, to establish a fee of up to 25 cents per month on every wireless telephone number to fund wireless enhanced 9-1-1 services. The bill was heard by the Senate Commerce, Consumer Protection, Energy and the Environment Committee on March 3. For many, the main priority moving forward is to create a plan for consolidating the public service answering points (PSAPs) across the state before creating a statewide funding mechanism for enhanced 9-1-1. The Office of Administration is currently working to develop a consolidation plan.

Missouri County Planning Act – SS/SCS/SB 5 (Griesheimer) and HB 379 (Sutherland) establish the Missouri County Planning Act, which would allow counties to create a county planning commission. The commission, formed by county commission appointment or petition vote and approval, would be able to recommend subdivision and zoning regulations, as well as adopt street plans for unincorporated areas. It also requires counties to appoint a board of zoning adjustment to hear appeals to zoning decisions. Nothing in the bill affects the existence or validity of a county ordinance or order adopted prior to August 28, 2009. The Senate Jobs, Economic Development and Local Government Committee voted SS/SCS/SB 5 "Do Pass" on February 18 and the Senate debated it for some time on March 3. Opposition remains unfortunately and SB 5 was laid over for further debate. The House Local Government Committee heard HB 379 on February 4.

Omnibus Local Government Bill – SS/SB 7 (Griesheimer) is this year's local government omnibus bill to date. We expect that the House will have at least one, if not two of their own omnibus bills that will contain many of the same provisions as SB 7. The Senate Jobs, Economic Development and Local Government Committee voted the bill "Do Pass" on February 9 and the Senate briefly took it up on March 3. It contains several sections pertinent to county government. **County Classifications:** Section 48.030 allows a county, after meeting the required assessed valuation, to become a second class county upon a vote of the governing body to change classifications. Currently, a county can only change classifications by a vote of the governing body if it is becoming a first class county; otherwise, the county must be at the required assessed valuation for five years before changing classifications. The effective date of the change in classification shall be at the beginning of the county fiscal year following the election by the governing body. This provision is identical to SB 38. **Caldwell County Holding Facility:** Section 49.310 allows Caldwell County to establish a jail or holding facility outside of the county seat. This section is identical to **SB 457 (Lager)**. **Brush Ordinance:** Under section 49.710, the county commission of any county without a charter form of government shall have the power to adopt ordinances requiring property owners to control brush on county right-of-ways or county maintenance easements that are part of the property owner's land that is adjacent to the county road. Any property owner in violation of such a county ordinance may be ordered to pay a civil fine of not more than ten dollars per day. **Bid Requirements:** Under sections 50.660 and 50.783, a county is not required to obtain bids on purchases of \$6,000 or less. Currently, such amount is set at \$4,500. Under current law, counties may waive competitive bidding when the county commission determines that there is only one feasible source for the supply. This act requires counties to post notice on such proposed purchases of over \$6,000 and advertise the commission's intent to make such purchase in the newspaper at least 10 days in advance. Currently, the commission must post notice for such proposed purchases of at least \$3,000 and also advertise in the newspaper for such purchases of at least \$5,000. This section is identical to **SB 256 (Schaefer)**. **Delinquent Tax Fees/Tax Maintenance Fund:** Under sections 52.290, 52.312 and 54.010, any counties that have adopted a charter form of government after January 1, 2008, shall collect a seven percent fee for the collection of delinquent taxes, as well as adopt a Tax Maintenance Fund; these procedures match current non-charter county procedures. Section 141.160 specifies that in Jackson and St. Louis Counties, the collector shall collect an additional five percent fee for delinquent and back taxes that will be deposited into the counties' general funds. Sections 140.150, 140.190, 140.230, 140.250, 140.260, 140.290, 140.310, 140.340, 140.405, and 140.420 change the provisions regarding the sale of real property for the collection of delinquent taxes. The collector is required to send up to three notices prior to a tax sale to the publicly recorded owner of record of the real property. The first notice is by first class mail, the second by certified mail, and a third notice is sent if the certified mail is returned unsigned to both the owner of record and the occupant of the real property at least 15 days before the fourth Monday in August. The purchase price of the property at a third offering must be at least equal to the sum of the delinquent taxes, interest, penalties, and costs. The certificate of purchase will be issued to an agent if the purchaser is a nonresident. The purchaser is required to pay a fee to the collector to record the certificate of purchase. After the third offering, the collector's deed or trustee's deed will have priority over all the other liens or encumbrances on the property sold except for real property taxes or federal liens. If the delinquent land tax sale results in an amount greater than the amount of debt, taxes, interest, and costs, the excess proceeds must be held in trust in the county treasury for three years for the publicly recorded owner or owners of the property sold or their legal representatives. After three years, any amount not called for will be deposited into the county's school fund. The redemption periods for the owner of record to redeem tax sale property are revised; and the owner

must reimburse the purchaser for all costs of sale, including the cost for recording the certificate of purchase, the fee to record the release of the certificate, the cost of the title search, the cost of the required certified mail notifications, interest at the rate specified on the certificate, and any taxes paid by the purchaser plus 8 percent interest. These sections are identical to **HB 261 (Franz)**. **Recorders' User Fees:** Section 59.319 increases certain user fees collected by county recorders from \$4 to \$7 (\$3 shall be deposited in the recorders' fund, \$2 goes to the Secretary of State for preserving local records, and \$2 goes to support land surveying). **Township Abolishment:** Section 65.610 allows the county commission, upon a majority vote, to put the issue of abolishing the county's township organization to a vote of the people. Currently, it requires a petition by 10 percent of the voters to submit the issue to a vote. **Technical Codes:** Section 67.280 requires communities to file one copy of any technical code adopted with the clerk's office to be available to the public, rather than three copies. **Transient Guest Tax:** Section 67.1360 authorizes the governing body of Montgomery County to seek voter approval for the imposition of a transient guest tax. Also, section 67.1361 states that the revenue derived from the transient guest tax for Buchanan County will be used for capital expenditures incurred in connection with tourism and convention facilities. **Exhibition Center And Recreation Districts:** Section 67.2000 allows real property owners in Caldwell, Clinton, Daviess and DeKalb Counties to seek voter approval for the creation of exhibition center and recreational facility districts. If such a district is created, it may seek voter approval for the imposition of a .25 percent sales tax, for a period not to exceed 25 years, to fund the district. This section is identical to **SB 386 (Lager)**. **Caldwell County Water Contracts:** Section 67.3000 states that it shall be lawful for Caldwell County to enter into a contract with private corporations engaged in delivering water at wholesale for domestic consumption. The county may also acquire, own, and hold, with private corporations, water mains. **Cemetery Maintenance:** Section 137.1040 states that a political subdivision must submit a proposal to the voters if proposing to impose a property tax to fund cemetery maintenance. The tax authorized under this bill shall not exceed .25 percent per \$100 assessed valuation and shall not become effective until approved by the voters. **Cass County Sewer Districts:** Section 204.569 states that bonds may be issued for a subdistrict that is partially or fully located in Cass County if the subdistrict receives the written assent of 75 percent of the political subdivisions that do business with the subdistrict. This section is identical to **SCS/SB 242 (Pearce)**.

Sunshine Law – HCS/HB 316 (Jones, Timothy) changes the Sunshine Law to require the minutes to reflect a general account of the discussions that occurred at a closed meeting; specify that only members of a public governmental body, their attorneys and staff assistants, and any necessary witnesses will be permitted in any closed meeting of the governmental body; specify the criteria for the litigation exception to the open record disclosure (an actual lawsuit, a threat of a lawsuit, or a substantial likelihood of litigation must exist in order to close information regarding a cause of action); require information to be made available in an electronic format if a public body keeps records in an electronic format (data must be available in a format accessible to the public if it is stored in a data-processing program); reduce from \$1,000 to \$100 the maximum civil penalty for any violation of Sections 610.010 - 610.026, *RSMo*, and increases the maximum penalty for a purposeful violation of these sections from \$5,000 to \$8,000 (the court may require the public official or county to pay all attorneys fees); and require any public meeting of a public governmental body addressing issues regarding a fee or tax increase, eminent domain, zoning, transportation development districts, or tax increment financing to give at least five days' notice prior to the meeting, exclusive of weekends and holidays when the facility is closed (The meetings must allow time for public comment. If proper notice is not given, discussion on the issue will be postponed and no vote will be taken for at least 30 days). The House Special Standing Committee on General Laws voted the bill "Do Pass" on February 24 and referred it to the House Rules Committee.

Elections/Photo ID – There are also dozens of bills before the Legislature relating to elections. **HJR 9 (Cox)** proposes a constitutional amendment authorizing the General Assembly to require a person to provide a photo identification in order to vote in elections. The House Elections Committee heard HJR 9 on February 24.

HCS/HB 173 (Cox) establishes the Andrew Jackson Vote Restoration Act which requires certain elections to be held even if the number of candidates filing for a position is equal to the number of positions available. Currently, nonpartisan elections in political subdivisions and special districts, except for municipalities, may be canceled if the number of candidates filing for a position is equal to the number of positions available. This bill establishes the Andrew Jackson Vote Restoration Act which repeals these provisions and requires elections to always be held. The House Elections Committee voted the bill "Do Pass" on March 10.

Currently, election authorities are required to issue voter notification cards to voters no later than 90 days prior to a primary or general election (with certain exceptions). **HB 709 (Dusenberg)** changes the reference from "notification" to "identification" cards and specifies that individuals registering to vote by postcard and who have not previously voted will not receive an identification card. The House Elections Committee voted the bill "Do Pass by Consent" on March 12 and referred it to the House Rules Committee.

Early Voting – SB 21 (Days), HB 49 (Frame) and HB 59 (Corcoran) establish a system that allows voters to cast advance ballots. **SB 95 (Justus)** and **HB 115 (Wildberger)** allow any registered voter who is eligible to vote in a particular election to do so by absentee ballot for any or no reason. SB 21 and SB 95 were referred to the Senate Financial and Governmental Organizations and Elections Committee. HB 49, HB 59 and HB 115 were referred to the House Elections Committee; HB 59 was heard on March 3.

County Classification Changes – There are currently three bills that deal directly with county classification changes. **SB 38 (Rupp)** allows a county, after meeting the required assessed valuation, to become a second class county upon a vote of the governing body to change classifications. Currently, a county can only change classifications by a vote of the governing body if it is becoming a first class county; otherwise, the county must be at the required assessed valuation for five years before changing classifications. The effective date of the change in classification shall be at the beginning of the county fiscal year following the election by the governing body. This provision is identical to **HB 257 (Schieffer)**, which the House Rules Committee voted "Do Pass by Consent" on March 10.

SB 38 also contains language, which is identical to **SB 358 (Purgason)**, that increases the assessed valuation a county must maintain in order to move into a higher classification. The assessed valuation for counties of the first classification is increased from \$600 million to \$750 million. The assessed valuation for counties of the second classification is increased from \$450

million to \$600 million. All counties with an assessed valuation of less than \$600 million will be counties of the third classification. The required assessed valuation for each classification shall be increased by an amount equal to any percentage increase in the consumer price index. SB 358 was referred to the Senate Jobs, Economic Development and Local Government Committee.

SB 38 passed the Senate on March 9 and was sent to the House. Also note that SB 38 is identical to section 48.030 of SB 7.

HB 328 (Hodges) establishes that when any county changes classification, this bill prohibits the salary established for each county official from being reduced until the official at the time of change leaves office. The House Local Government Committee heard the bill on February 25.

Electronic Property Tax Collection - **HCS/HB 148 (Franz)** allows certain first and second class counties to collect property taxes using electronic records and disbursements. County collectors of these counties are required by the fifteenth day of each month to file, with the county clerk and auditor, a detailed statement of all taxes and license fees collected during the preceding month. Taxing authorities will be required to request notification of current taxes paid under protest by February 1, and county collectors must provide the information by March 1. The bill passed the House on March 12 and was sent to the Senate.

Limits On State Appropriations – Upon voter approval, **HCS/HJR 23 (Icet)** prohibits appropriations in any fiscal year from exceeding the total state general revenue appropriations from the previous year by more than the appropriations growth limit. The appropriations growth limit will be the greater of zero or the sum of the annual rate of inflation and the annual Missouri population growth. The provisions of the resolution will expire five years from the effective date. HCS/HJR 23 passed the House on March 12 and was sent to the Senate.

Competitive Bids – Under current law, counties may waive competitive bidding when the County Commission determines that there is only one feasible source for the supply. **SB 256 (Schaefer)** and **HB 376 (Hobbs)** requires counties to post notice on such proposed purchases of over \$6,000 and advertise the commission's intent to make such purchase in the newspaper at least 10 days in advance. Currently, the commission must post notice for such proposed purchases of at least \$3,000 and also advertise in the newspaper for such purchases of at least \$5,000. The Senate Jobs, Economic Development and Local Government Committee voted SB 256 "Do Pass" on February 25. The House Rules Committee voted HB 376 "Do Pass" on March 3.

Rental Property Occupancy Standards – **SB 247 (Schaefer)** and **HB 378 (Hobbs)** permits first class counties to establish occupancy standards for rental or lease properties. The Senate Jobs, Economic Development and Local Government Committee heard SB 247 on February 25. The House Local Government Committee heard HB 378 on February 4.

Commissioners' Salaries – **HCS/HB 392 (Nolte)** removes the requirement that presiding commissioners be paid \$2,000 more than the associate commissioners in first class counties. The House Local Government Committee voted the bill "Do Pass" on March 4.

Linked Deposit Loan Program – **SB 542 (Pearce)** and **HB 883 (Flook)** expand the State Treasurer's linked deposit loan program to include as participants individuals who want to produce their own energy from renewable resources, and political subdivisions or other public entities seeking to finance capital improvements or other significant programs. SB 542 was referred to the Senate Governmental Accountability and Fiscal Oversight Committee. HB 883 was referred to the House Financial Institutions Committee.

Billboard Standards – Under **SCS/SB 57 (Stouffer)**, on the date the commission approves funding for any phase or portion of construction or reconstruction of Interstate 70 or Interstate 44, the rules in effect for outdoor advertising on August 27, 1999, shall be reinstated for that section of highway scheduled for construction and there shall immediately be a moratorium imposed on the issuance of state sign permits for new sign structures. Owners of existing signs which meet the requirements for outdoor advertising in effect on August 27, 1999, and the requirements of the federal/state agreement and who voluntarily execute a partial waiver and reset agreement may reset such signs on the same or adjoining property. Such reset agreements shall be contingent upon obtaining any required local approval to reset the sign structure. Any sign which has been reset must still comply with the August 27, 1999 outdoor advertising regulations after it has been reset. Owners of existing signs who elect to reset qualifying signs shall receive compensation representing the actual cost to reset the existing sign. Signs which have been reset under the act must be reconstructed of the same type materials and may not exceed the square footage of the original sign structure. Sign owners may elect to reset existing qualifying signs by executing a partial waiver and reset agreement with the commission. Upon the completion of construction on any section of Interstate 70 or Interstate 44, the moratorium on new permits shall be lifted and the rules for outdoor advertising in effect on the date the construction is completed shall apply to such section of highway. Local zoning authorities may prohibit the resetting of qualifying signs which fail to comply with local regulations, but local authorities which choose to prohibit such resetting shall reimburse the commission the cost to condemn such signs less the cost to reset the sign under the act. The Senate Transportation Committee voted the bill "Do Pass" on February 18.

Financial Interest Statements -- Current law requires elected officials, candidates for elective office, and certain other officials of a political subdivision with an operating budget of over \$1 million to file financial interest statements. **SB 66 (Scott)** changes the operating budget floor to those over \$2 million. The bill passed the Senate "consent" on March 12 and was sent to the House.