

A Chronological History of Local Sales Tax in St. Louis County

Tim Fischesser, Executive Director
St. Louis County Municipal League

November 9, 2011

INTRODUCTION

This summary is intended to provide primary information about the local sales tax as it applies to governments within St. Louis County with the goal of bringing the reader up to a basic level of understanding. There are many nuances that are not easy to fully describe. Attempts to do so could interject biases, especially given the varying opinions on sharing, local effort, regressive vs. progressive taxation, retail incentives or disincentives, size of city and a myriad of other issues. For the most part, observations on these factors will not be included so that this summary will be as empirical as possible. It does not include scenarios regarding potential changes.

The 1960s

Prior to 1969 local sales taxes for municipalities were not authorized. The two principal revenue sources at the time for local governments were property and utility taxes. St. Louis County had a special law enacted in 1967 to allow for a utility tax of up to 5% for the unincorporated area to be used for public safety (police).

Services to the unincorporated area were also supported by property taxes paid by residents of both incorporated and unincorporated areas. This would become a factor in creating a county sales tax pool in 1977.

In the late 1960's, municipalities in the State of Missouri sought to establish a state revenue sharing program. In response to this, State leaders instead coined the term the "creative localism" and in 1969 authorized the first local sales. Each city had the right to place a sales tax of up to one cent before voters. This authority is found in 94.500 RSMo, but no longer applies to municipalities in St. Louis County due to a newer 1977 statute.

Annexations and incorporations were difficult following the Graeler court decision in the early 1960s so the unincorporated area was not likely to change significantly.

During the 1960s, about 2/3 of the county population was unincorporated and 1/3 incorporated. This large unincorporated population is somewhat unique among Missouri counties, perhaps caused in part by the City of St. Louis' frozen boundaries (contrast this with Kansas City which has expanded over the years into 4 counties).

The 1970s

With the authority that was created for a municipal sales tax in 1969, many cities throughout the state received voter approval for their first sales tax, including approximately 56 in St. Louis County. Upon passage, many lowered the city's property tax.

This sales tax authority was not available to St. Louis County itself. In addition, many cities did not have much of a retail sales base and did not enact the tax. As noted above, the countywide property tax was transferring funds paid by municipal residents to the unincorporated area to underwrite services. These issues led to legislative proposals to create a sales tax pool consisting of the unincorporated area and municipalities that did not levy the sales tax. The proposals were debated and eventually adopted in the form of SB 234 in 1977 which created a one cent countywide sales tax and prohibited the local option under 94.500 RSMo. Voters approved the countywide sales tax in October 1977. This was special legislation just for St. Louis County and is found in 66.600-66.620 RSMo.

The legislation established municipalities which previously levied the sales tax as “A” or point-of-sale cities, and those not levying the tax as “B” or pool cities. The pool included the unincorporated area of the County. There was no sharing between “A” and “B” members. The “A” municipalities retained 100% of the sales tax generated within their borders before and after the adoption of the countywide sales tax. The pool members combined all of the sales tax collected and shared it on a population basis.

The new law also allowed “A” or “B” cities to switch categories following the 1980 census (presumably a switch would depend on what would be more financially advantageous to that municipality). There was a caveat that a “B” city that had never levied a local sales tax could not become an “A” city. A 1993 change prohibited “A” cities that became “B” cities from becoming “A” cities again. “A” cities could still join the pool (presumably if their sales tax revenue declined). The number of municipalities in the pool could increase but not decrease.

The countywide property tax was reduced by 30 cents after the approval of the sales tax in 1977. This helped address the issue regarding the residents of municipalities paying a County property tax to support services in the unincorporated area. With unincorporated residents now paying a sales tax, the burden on county-wide tax payers to support the unincorporated area would be reduced.

The 1980s

In 1983, the *Graeler* decision mentioned above that limited annexations and incorporations was overturned by the Missouri Supreme Court in the *Town & Country* case. This opened the door to annexations and incorporations, including the potential for cherry picking more lucrative areas. This could have led to a loss in revenue to the pool.

The minutes of the January 16, 1984 League Board of Directors meeting demonstrates the concern regarding this change. *“President Patricia Killoren mentioned . . . the recent meeting with County Executive McNary and representatives of municipalities with proposed annexation plans. It was agreed by the majority of representatives in attendance to annex unincorporated county only if petitioned by residents within the area to be annexed. County Executive McNary is to appoint the committee, which will include a League representative, to study the restructuring of the County government, municipal governments, and the county tax distribution method.”*

In early 1984 the legislature enacted a special law to freeze the boundaries of the “A” portion of the point-of-sale cities with the intention that newly annexed or incorporated areas would remain in the pool if annexed or incorporated. Any municipality could annex territory, but the one cent sales tax would remain in the pool and the annexing city would simply receive the same per capita for the annexed population that had been received by the County.

During this decade two large cities, Maryland Heights and Chesterfield, incorporated and some annexations occurred. This rather dramatic change led St. Louis County officials to call for the formation of a board of freeholders, as authorized in the Missouri constitution. This group was convened in 1987 to study and make recommendations on the government structure of the County, including a call for total incorporation of the County by Mr. McNary.

In lieu of the Board of Freeholders, the League supported the creation of a boundary/ growth commission in 1987 so that citizens in and near each city could control their own boundaries.

County Executive McNary accepted a federal appointment in 1989 and the formation of the Freeholders was successfully challenged because the Board excluded non-property owners from serving on the Board.

Eventually a newly appointed Board of “Electors” proposed a significantly different plan which did not affect municipal boundaries. It was defeated by voters.

During the 1989 session, the legislature authorized the creation of a Boundary Commission (HB 487). In order to promote full incorporation of the County over a 10 year period, it contained a provision (effective in 1996) which called for unincorporated areas to be annexed if the annexing municipality and the whole municipality which would result voted in favor (combined majority). It also allowed for an unincorporated property tax and, if defeated, a reduction of services provided by the County. A provision effective in the year 2000 required that unincorporated areas incorporate or the entire county consider levying taxes in the unincorporated area only.

The 1990s

The 1990s were marked by significant changes to the 1977 sales tax law and the boundary commission law, along with the expansion of sales tax authority for municipalities throughout the state.

In 1993, County Executive Buzz Westfall proposed state legislation to require sharing of the one cent sales tax. This led to negotiations between the “A” and “B” members. HB 618 was passed during the 1993 session which:

- Required “A” cities to share a portion of the one cent sales tax revenue with the “B” members. The higher the per capita revenue of the “A” city, the higher the percentage of shared dollars. (66.620 RSMo)
- Authorized an additional ¼ cent sales tax for any County municipality (but not for the unincorporated area). 26 “A” cities have passed this tax which helped many make up for lost revenue from the sharing. 10 “B” cities have passed the tax in the ensuing years too. This ¼ cent tax has a sharing provision as well. Each city which passes the tax (including the Bs) will share a portion with all pool members – even those which have not passed it, including the unincorporated area (94.850- 94.857 RSMo).
- Established an “annexation adjustment” for the County to provide a portion of the sales tax to the County based on the percentage of the population that has been annexed or incorporated dating back to 1983 (66.620.6 RSMo). If total incorporation were to occur, the County would receive 10% of the total one cent and ¼ cent sales tax money. This is paid by all cities. In addition, any area annexed by a city with the ¼ cent tax must provide 50% of the tax revenue to the County for a period of 5 years. [In 2010 the County received over \$8 per capita more than the “B” cities as a result (94.850.4 RSMo)].
- Shared the existing 1.5% use tax on out of state purchases so that it would have been distributed 1/3 to the County and 2/3 to the “B” municipalities and low per capita “A” municipalities, but not to the “B” portion of the County. However, the US Supreme Court invalidated the state law and required local votes on the use tax. The distribution formula for the use tax has changed significantly over the years with only about 1/3 potentially going to municipalities as of 2011. However, it was defeated by county voters in 1996, 2001, and 2008.

In 1995, following a successful court challenge, the legislature authorized a ½ cent capital improvements sales tax for any municipality in St. Louis County (94.890 RSMo). This is another special law regarding the distribution in St. Louis County. It has been approved by 79 municipalities here. Upon voter approval of the tax, the municipality had to declare whether it wished to be:

- Option 1 and retain 85% of the revenue generated and share the remaining 15% with those choosing Option 2;
- Option 2 municipalities would pool all revenue from Option 2 participants along with the 15% from the Option 1 cities and receive revenue a per capita share of this revenue. Unlike the ¼ cent above, only those municipalities which pass the tax share in the Option 2 distribution.

Also in 1995, the legislature authorized a sales tax of up to ½ cent for any municipality in the state to be used for parks and/or stormwater (644.032 RSMo). There are no sharing provisions for this tax and each municipality retains what is generated within its borders. It has been enacted by 49 municipalities here.

In 1999, the legislature authorized a sales tax of up to ¼ cent for any municipality with a fire department for the provision of fire services (321.242 RSMo). There are no sharing provisions for this tax and each municipality retains what is generated within its borders. It is levied in 14 communities here.

The Boundary Commission law was the subject of some controversy in the 1990s. Some cities which sought to annex or incorporate and were denied by the Commission. They challenged the legislation creating the commission and the law was thrown out as a special law. Following this decision, the Cities of Wildwood and Green Park incorporated. The Boundary Commission statute was amended by the legislature and re-enacted in 1995 and amended several times thereafter. The provisions that may have promoted full incorporation by 2000 were removed at the County's request, five year plans were added, along with 3 joint appointees to reduce polarization. Some controversies and litigation still arise from time to time.

The 2000s

In 2005, the General Assembly authorized cities to levy a sales tax of up to ½ cent for economic development purposes. There are no sharing provisions for this tax and each municipality retains what is generated within its borders. (67.1305 RSMo). This is levied in 9 cities.

In 2008, a great recession began in the United States. Most tax revenues dropped at the local, state, and national levels. In addition, internet and other forms of purchasing goods from out-of-state vendors have reduced sales tax revenues, along with a growing list of exempt items. 2010 sales tax revenues have dropped to 2001 levels in St. Louis County.

NOTE: How census changes affect distribution of the one cent and ¼ cent sales tax in St. Louis County

For "A" cities: if revenues are steady and population increases, the per capita amount mathematically decreases making the city look less wealthy so sharing is less. If population decreases, the per capital amount mathematically increases making the city look better off financially so sharing is increased.

For "B" cities: Since each resident generates a per capita amount, if population increases, revenue also increases. The opposite is true for population decreases.

See Appendix A for a list of one cent and ¼ cent sales tax receipts for 2010.

See Appendix B for a list of all local option sales taxes levied by municipalities.

See Appendix C which shows one cent sales tax trends for the last 20 years.

