

IN THE COUNTY LEGISLATURE OF JACKSON COUNTY, MISSOURI

AN ORDINANCE repealing sections 9305., 9306. and 9307. Jackson County Code, 1984, relating to the anti-drug sales tax and enacting, in lieu thereof, three new sections relating to the same subject.

ORDINANCE NO. 5045, November 6, 2017

INTRODUCED BY Dan Tarwater III, Dennis Waits, Greg Grounds, Garry J. Baker, Scott Burnett, and Theresa Galvin, County Legislators

BE IT ORDAINED by the County Legislature of Jackson County, Missouri as follows:

Section A. Enacting Clause. Sections 9305., 9306., and 9307., Jackson County Code, 1984, are hereby repealed and three new sections enacted in lieu thereof, to be known as sections 9305., 9306., and 9307., to read as follows:

9305. Drug Commission.

A Drug Commission shall be established and organized as follows:

9305.1 Composition

The County Executive shall appoint, as members of the commission, nine residents of Jackson County from among those recommended by the County Legislature [or from among those citizens known by the County Executive to be interested in serving on the Commission]. One member shall be appointed from each of the six legislative districts and three members shall be appointed from the County at large. The at-large members shall represent the professional fields of law, substance abuse, and public health/health care, with one member

appointed from each field. Three members shall serve initial terms of two years, three members shall serve initial terms of three years, and three members shall serve initial terms of four years. Members of the initial Drug Commission shall be eligible for reappointment to one four-year term each. Successor members of the Commission shall serve terms of four years, or for the unexpired terms of their predecessors, and are also eligible for reappointment. The County Executive shall designate one member to serve as the Commission Chair.

9305.2 Ex Officio Members

The Prosecuting Attorney, the Chief of the Kansas City, Missouri Police Department, and the Chair of the Jackson County Drug Task Force shall serve as ex officio members of the Commission without vote.

9305.3 COMBAT Funding Recipients Not Eligible.

No voting member of the Commission shall concurrently be employed by, a director of, or otherwise similarly associated under any entity or organization which applies for or receives COMBAT funding in any manner.

9305.4 Powers and Duties.

The Drug Commission shall establish goals for COMBAT funding and make recommendations on all funding requests for COMBAT initiatives.

9305.5 Compensation.

Each member of the Commission shall receive the sum of \$700.00 per meeting personally attended for his or her service. No member of the commission shall receive in excess of \$8,400.00 per calendar year for his or her service on the Commission.

9305.6 Meetings. The Commission shall meet at least quarterly.

9306. COMBAT Director.

The administration of the COMBAT tax shall be under the day-to-day supervision of a COMBAT Director. The following shall apply to the COMBAT Director:

9306.1 Appointment.

The COMBAT Director shall be appointed by the Jackson County [Executive] Prosecuting Attorney, subject to the disapproval of the County Legislature.

9306.2 Removal

The COMBAT Director shall serve at the pleasure of the County [Executive] Prosecuting Attorney, except that he or she may be removed from office either by the County [Executive] Prosecuting Attorney or by a majority of the County Legislature.

9306.3 Qualifications

The COMBAT Director shall have a minimum of eight years' experience in the areas of public health, substance abuse, prosecution, law enforcement, and/or other similar disciplines relevant to COMBAT, or the educational equivalent of such experience. At least five years of such experience shall be in supervision and administration.

9306.4 Duties

The COMBAT Director shall set the priorities and direction of the COMBAT tax in all of its areas of emphasis, to include law enforcement, drug treatment, and community crime prevention, especially violence. The Director shall supervise all staff authorized in the annual county budget, and shall provide staff support for the Drug Commission.

9307. Performance Evaluation.

The Jackson County Prosecuting Attorney, in consultation with the [Prosecuting Attorney] COMBAT Director, shall annually provide for a performance evaluation of programs funded by COMBAT, to be conducted by an independent firm or agency.

Effective Date: This Ordinance shall be effective immediately upon its passage by the County Executive.

APPROVED AS TO FORM:

Jan D. Hadlen
Chief Deputy County Counselor

W. Stephen Nease
County Counselor

I hereby certify that the attached ordinance, Ordinance No. 5045 introduced on November 6, 2017, was duly passed on ~~WITHDRAWN DEC 11 2017~~, 2017 by the Jackson County Legislature. The votes thereon were as follows:

Yeas _____

Nays _____

Abstaining _____

Absent _____

WITHDRAWN DEC 11 2017

This Ordinance is hereby transmitted to the County Executive for his signature.

Date

Mary Jo Spino, Clerk of Legislature

I hereby approve the attached Ordinance No. 5045.

Date

Frank White, Jr., County Executive



OFFICE OF THE COUNTY COUNSELOR

JACKSON COUNTY COURTHOUSE

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MEMORANDUM

TO: MEMBERS OF THE COUNTY LEGISLATURE

FROM: W. STEPHEN NIXON
COUNTY COUNSELOR *WSN*
11/13/2017

DATE: NOVEMBER 13, 2017

RE: ORDINANCE 5045

I am writing to request that the legislature provide this office two additional weeks to research at least two legal issues raised by this ordinance. By way of background, this ordinance, which would amend chapter 93 of the county code relating to the anti-drug sales tax, was introduced as an add-on to the agenda at the legislature's last meeting, November 6, 2017. This version of the ordinance as introduced was not prepared by the County Counselor's Office, as is customary. Thereafter, this office's staff reviewed the ordinance as introduced, and revised it into a proper form, so that we could "approve as to form," which is required by article V, section 7 of the county charter. Please note that, in approving an item as to form, this office is not making any statement on its legality. The legal office's approval "as to form and legality" is a requirement in some local jurisdictions, but not in Jackson County.

Our initial review of the ordinance reveals at least two legal issues that must be resolved. The proposed amendment of section 9305.1 would limit the county executive's power to appoint members of the Drug Commission to those in a pool recommended by the legislature. Currently that subsection allows the executive to appoint from that pool as well as from a pool of those "known by the county executive to be interested in serving on the Commission." The proposed amendment would remove this second pool from the executive's consideration. This squarely raises the issue as to whether this amendment is an improper infringement on the executive's power to appoint members of boards and commissions, as set out in article III, section 6.1 of the charter. Our recollection is that this issue has arisen periodically over the years, and that this office's position that, while the legislature can impose reasonable qualifications for office and geographic residency requirements for board and commission members, requiring a certain officer or person to be a member, or limiting the executive's consideration to a defined pool is contrary to the charter.

The other issue clearly raised by the proposed amendment is section 9306's proposed assignment of the power to appoint the COMBAT director to the prosecuting attorney. Section 9306 now grants that power to the county executive. There are at least three charter provisions that are implicated by this proposed amendment: 1.) article III, section 1's vesting of "the executive power of the county" in the county executive; 2.) article IV, section 1's assignment of "the administrative functions" of the county to departments and directors appointed and removed by the county executive; and 3.) the power of the county executive under article III, section 1 to appoint "officers not otherwise provided for." We do not recall these issues having been raised previously, so we'll need some time to conduct the required research to be able to properly advise the legislature of the law in this area. Since we are not aware of anything time sensitive that would require the immediate consideration of this ordinance, we believe our request for two weeks is reasonable and prudent, to allow us to render proper advice.