

**IN THE CIRCUIT COURT OF COLE COUNTY  
STATE OF MISSOURI**

CITY OF NORMANDY	:	
CITY OF COOL VALLEY	:	
CITY OF VELDA VILLAGE HILLS	:	
VILLAGE OF GLEN ECHO PARK	:	CASE NO.
CITY OF BEL RIDGE	:	
CITY OF BEL-NOR	:	DIVISION
CITY OF PAGEDALE	:	
CITY OF MOLINE ACRES	:	
VILLAGE OF UPLANDS PARK	:	
CITY OF VINITA PARK	:	
CITY OF NORTHWOODS	:	
CITY OF WELLSTON,	:	
PATRICK GREEN, and	:	
MARY LOUISE CARTER,	:	
Plaintiffs	:	

v.

JEREMIAH WILSON NIXON, in his	:	
capacity as the Governor of Missouri	:	
CHRIS KOSTER, in his capacity as the	:	
Attorney General of Missouri	:	
NICOLE R. GALLOWAY, in her	:	
capacity as the Missouri State Auditor, and	:	
NIA RAY, in her capacity as the Director	:	
of the Missouri Department of Revenue,	:	
Defendants	:	

Serve: Supreme Court Building  
207 West High Street  
Jefferson City, MO 65102

**VERIFIED PETITION FOR DECLARATORY JUDGMENT AND  
PRELIMINARY AND PERMANENT INJUNCTION**

COMES NOW Plaintiffs City of Normandy, City of Cool Valley, City of Velda Village Hills, Village of Glen Echo Park, City of Bel Ridge, City of Bel-Nor, City of Pagedale, City of Moline Acres, Village of Uplands Park, City of Vinita Park, City of Northwoods, City of Wellston, Patrick Green and Mary Louise Carter, by and through their undersigned counsel, and

for their Verified Petition for Declaratory Judgment and Preliminary and Permanent Injunction, state as follows:

**Preliminary Statement**

1. On May 7, 2015, the Missouri General Assembly passed, and, on July 9, 2015, the Governor of Missouri signed Senate Bill No. 5 (“SB 5”).

2. In an extraordinary act of overt discrimination, SB 5 expressly provides that, commencing January 1, 2016, municipalities within “any county with a charter form of government and with more than nine hundred fifty thousand inhabitants” cannot “retain” their “fines, bond forfeitures, and court costs” arising out of “minor traffic violations” if they exceed **12.5%** of their “annual general operating revenues.” A copy of SB 5 is annexed hereto as Exhibit A.

3. At the time that SB 5 was passed and signed, both the General Assembly and the Governor knew that the only county in Missouri with a charter form of government and more than 950,000 inhabitants was St. Louis County. Moreover, they also knew that, when SB 5 was passed and signed, the second largest county in Missouri with a charter form of government was Jackson County with approximately 670,000 inhabitants. At its current rate of population growth, Jackson County will not exceed 950,000 inhabitants, if it ever does, before the year 2090 – 75 years from now.

4. In discriminatory contrast to the municipalities in St. Louis County, commencing January 1, 2016, all of the municipalities in Missouri’s other 113 counties cannot “retain” their “fines, bond forfeitures, and court costs” arising out of “minor traffic violations” if they exceed **20.0%** of their “annual general operating revenues.” Thus, the non-St. Louis County municipalities are able to retain **60%** more of their “fines, bond forfeitures, and court costs” than the stigmatized St. Louis County municipalities.

5. Moreover, as demonstrated by SB 5 Section 479.359.1, all of the municipalities in Missouri prior to January 1, 2016 had the right to retain up to **30%** of their annual general operating revenues derived from fines, bond forfeitures, and court costs attributable to minor traffic violations. As a result of SB 5, commencing January 1, 2016, the municipalities in St. Louis County will see their revenues from fines, bond forfeitures, and court costs attributable to minor traffic violations drastically reduced by nearly **60%** to 12.5%, while all other municipalities in Missouri will see them reduced by only **33%** to 20%. This **60%** reduction in annual general operating revenues will wreak havoc and devastation in the St. Louis County municipalities' ability to provide their customary government functions and services.

6. In addition to this discrimination addressed solely to the municipalities located in St. Louis County, SB 5 also regulates the affairs of and burdens only the municipalities located in St. Louis County with the following new and expensive administrative activities pursuant to Section 67.287:

(a) Provision of "an annual audit by a certified public accountant of the finances of the municipality," including "a report on the internal controls utilized by the municipality and prepared by a qualified consultant that are implemented to prevent misuse of public funds";

(b) Provision of a report demonstrating that the municipality's "current procedures . . . show compliance with or reasonable exceptions to the recommended internal controls";

(c) Provision of "a cash management and accounting system that accounts for all revenues and expenditures";

(d) Purchase of "adequate levels of insurance to minimize risk";

- (e) Provision of public access to a complete set of municipal ordinances;
- (f) Provision of accreditation or certification for the municipal police force;

and

(g) Provision of written policies regarding the safe operation of emergency vehicles, safe operation of police pursuits, use of force by police officers, general orders for the police department and collecting and reporting all municipal crime and police stop data and forwarding such to the Attorney General.

7. In addition, SB 5 also regulates the affairs of and burdens all Missouri municipalities with the following new and expensive administrative activities pursuant to SB 5 Section 479.359.3:

(a) The municipalities must submit an “addendum to the annual financial report submitted to the state auditor . . . contain[ing] an accounting of”: (i) its “annual general operating revenue” as defined in SB 5; (ii) its “total revenues from fines, bond forfeitures, and court costs for minor traffic violations”; and (iii) “the percent of annual general operating revenues from fines, bond forfeitures, and court costs for minor traffic violations”; and

(b) The “addendum” must be “certified and signed by a representative with knowledge of the subject matter as to the accuracy of the addendum contents, under oath and under the penalty of perjury, and witnessed by a notary public.”

8. Notwithstanding the new and onerous burdens placed on the municipalities located in St. Louis County pursuant to SB 5 Sections 479.359 and 67.287, as set forth in paragraphs 6 and 7 of this Petition, SB 5 does not provide, appropriate or authorize any funding to reimburse the municipalities for these new and onerous burdens. Indeed, it is self-evident that each of the plaintiff municipalities and, therefore, their taxpayers will now be saddled with tens

of thousands dollars in new expenses without any kind of legislative reimbursement or funding. Simply stated, SB 5 has imposed staggering unconstitutional unfunded mandates on the St. Louis County municipalities.

### **Parties**

9. Plaintiff City of Normandy is a Third Class City located in St. Louis County, Missouri.

10. Plaintiff City of Cool Valley is a Fourth Class City located in St. Louis County, Missouri.

11. Plaintiff City of Velda Village Hills is a Fourth Class City located in St. Louis County, Missouri.

12. Plaintiff Village of Glen Echo Park is a Village located in St. Louis County, Missouri.

13. Plaintiff City of Bel Ridge is a Fourth Class City located in St. Louis County, Missouri.

14. Plaintiff City of Bel-Nor is a Fourth Class City located in St. Louis County, Missouri.

15. Plaintiff City of Pagedale is a Fourth Class City located in St. Louis County, Missouri.

16. Plaintiff City of Moline Acres is a Fourth Class City located in St. Louis County, Missouri.

17. Plaintiff Village of Uplands Park is a Village located in St. Louis County, Missouri.

18. Plaintiff City of Vinita Park is a Fourth Class City located in St. Louis County, Missouri.

19. Plaintiff City of Northwoods is a Fourth Class City located in St. Louis County, Missouri.

20. Plaintiff City of Wellston is a Third Class City located in St. Louis County, Missouri.

21. Plaintiff Patrick Green is the Mayor of Normandy, Missouri and a taxpayer residing in Normandy, Missouri.

22. Plaintiff Mary Louise Carter is the Mayor of Pagedale, Missouri and a taxpayer residing in Pagedale, Missouri.

23. Plaintiffs Patrick Green and Mary Louise Carter bring this action as taxpayers and are referred to herein as the "Taxpayer Plaintiffs."

24. Defendant Jeremiah Wilson "Jay" Nixon is sued in his capacity as the Governor of Missouri.

25. Defendant Chris Koster is sued in his capacity as the Attorney General of Missouri.

26. Defendant Nicole R. Galloway is sued in her capacity as the Missouri State Auditor.

27. Defendant Nia Ray is sued in her capacity as the Director of the Missouri Department of Revenue.

### **Venue**

28. Venue is proper in this Circuit Court because all of the offices of the individual state defendants are located, and their principal duties are performed, in this Circuit.

**Count I –Violation of Article III Section 40 of the Missouri Constitution**  
**Special Law**  
**(All Plaintiffs Except Taxpayer Plaintiffs v. All Defendants)**

29. Plaintiffs reallege, restate and incorporate herein by reference paragraphs 1 through 28 of this Petition as if fully set forth at length herein.

30. Article III Section 40 of the Missouri Constitution provides in relevant part that:

The general assembly shall not pass any local or special law: ... remitting fines, penalties and forfeitures or refunding money legally paid into the treasury; ... prescribing the powers and duties of officers in, or regulating the affairs of counties, cities, township, election or school districts; ...where a general law can be made applicable....

Moreover, Article III Section 40 provides that “whether a general law could have been made applicable is a judicial question to be judicially determined without regard to any legislative assertion on that subject.”

31. SB 5 Section 479.359.2 creates a special class of political subdivisions defined as “any county with a charter form of government and with more than nine hundred fifty thousand inhabitants and any city, town, or village with boundaries found within such county.”

32. St. Louis County is the only county with a charter form of government and with more than 950,000 inhabitants.

33. The population threshold is so unreasonably high that as a practical matter the status of the members of the targeted class will not change for at least 75 years, if ever at all.

34. The only reason for such an unreasonably high population threshold is to target the municipalities located in St. Louis County and exclude all other municipalities in Missouri.

35. By way of this special classification, SB 5 regulates only the affairs of the municipalities located in St. Louis County and places them at a severe financial disadvantage.

36. Under SB 5 Section 479.359.2, the collection of fines, bond forfeitures and court costs for minor traffic violations may not exceed 12.5% of a St. Louis County municipality's annual general operating revenues.

37. However, municipalities in the remaining 113 counties in Missouri may retain up to 20% of their annual general operating revenues from fines, bond forfeitures and court costs for minor traffic violations.

38. SB 5 Section 479.359.1 requires that municipalities remit all excess fines, bond forfeitures and court costs for minor traffic violations to the director of the department of revenue.

39. For the last twenty years, the General Assembly has capped the amount of traffic fines municipalities could collect, and it has done so by general laws applying equally to all municipalities.

40. Having successfully regulated the issuance of minor traffic citations for two decades by general law, the General Assembly recognized that citing and prosecuting minor traffic offenses posed the same challenges and temptations for urban, suburban and rural municipalities alike.

41. SB 5's imposition of a 12.5% limit on the retention of fines, bond forfeitures, and court costs by only the municipalities located in St. Louis County is a presumptively unconstitutional special law because:

(a) SB 5 contains a population classification that includes only St. Louis County and the municipalities located in St. Louis County;

(b) Municipalities similar in size to the municipalities located in St. Louis County are not included in SB 5's 12.5% limit, but, instead are permitted a 20% limit; and

(c) SB 5's dual requirements of a county charter and a county with more than 950,000 inhabitants is so narrow that the only reason for the narrow range is to target only those municipalities in St. Louis County and to exclude all other municipalities in Missouri.

42. There is no reasonable basis, much less a substantial justification, for SB 5's imposition of a 12.5% limit on the citation and prosecution of minor traffic violations by only those municipalities located in St. Louis County while turning a blind eye to the rest of the state.

43. Plaintiffs will be severely damaged by a 60% decrease in their annual general operating revenues, as compared to all other Missouri municipalities outside St. Louis County, resulting in a devastating reduction of municipal services for their residents.

44. The St. Louis County municipalities that fail to comply with SB 5 Section 479.359 run the risk of disincorporation pursuant to SB 5 Section 479.368.3.

45. Accordingly, SB 5 Section 479.359 will cause all Plaintiffs, except the Taxpayer Plaintiffs, to suffer immediate and irreparable harm.

WHEREFORE, Plaintiffs demand: (a) a declaratory judgment that SB 5 Section 479.359 is an invalid special law in violation of Article III Section 40 of the Missouri Constitution; and (b) a preliminary and permanent injunction prohibiting the enforcement of SB 5 Section 479.359.

**Count II – Violation of Article III Section 40 of the Missouri Constitution  
Special Law  
(All Plaintiffs Except Taxpayer Plaintiffs v. All Defendants)**

46. Plaintiffs reallege, restate and incorporate herein by reference paragraphs 1 through 45 of this Petition as if fully set forth at length herein.

47. Article III Section 40 of the Missouri Constitution provides in relevant part that:

The general assembly shall not pass any local or special law: ... remitting fines, penalties and forfeitures or refunding money legally paid into the treasury; ... prescribing the powers and duties of officers in, or regulating the affairs of counties, cities, township,

election or school districts; ...where a general law can be made applicable....

Moreover, Article III Section 40 provides that “whether a general law could have been made applicable is a judicial question to be judicially determined without regard to any legislative assertion on that subject.”

48. SB 5 Section 67.287.1(2) creates a special class of political subdivisions defined as “any city, town, or village located in any county with a charter form of government and with more than nine hundred fifty thousand inhabitants.”

49. St. Louis County is the only county with a charter form of government and with more than 950,000 inhabitants.

50. The population threshold is so unreasonably high that as a practical matter the status of members of the targeted class will not change for at least 75 years, if ever at all.

51. The only reason for such an unreasonably high population threshold is to target the municipalities located in St. Louis County and exclude all other municipalities in Missouri.

52. In addition, SB 5 regulates the affairs of and burdens only the municipalities located in St. Louis County with the following additional new and expensive administrative activities pursuant to Section 67.287:

(a) Provision of “an annual audit by a certified public accountant of the finances of the municipality,” including “a report on the internal controls utilized by the municipality and prepared by a qualified financial consultant that are implemented to prevent misuse of public funds”;

(b) Provision of a report demonstrating that the municipality’s “current procedures . . . show compliance with or reasonable exceptions to the recommended internal controls”;

(c) Provision of “a cash management and accounting system that accounts for all revenues and expenditures”;

(d) Purchase of “adequate levels of insurance to minimize risk”;

(e) Provision of public access to a complete set of municipal ordinances;

(f) Provision of accreditation or certification for the municipal police force;

and

(g) Provision of written policies regarding the safe operation of emergency vehicles, safe operation of police pursuits, use of force by police officers, general orders for the police department and collecting and reporting all municipal crime and police stop data and forwarding such to the Attorney General.

53. Municipalities in the remaining 113 counties in Missouri do not have any of the administrative burdens imposed on only those municipalities located in St. Louis County by SB 5.

54. SB 5’s regulation of the affairs of only the municipalities located in St. Louis County is a presumptively unconstitutional special law because:

(a) SB 5 contains a population classification that includes only St. Louis County and the municipalities located in St. Louis County;

(b) Municipalities similar in size to the municipalities located in St. Louis County are not included in the regulatory burdens imposed on the municipalities located in St. Louis County; and

(c) SB 5’s dual requirements of a county charter and a county with more than 950,000 inhabitants is so narrow that the only reason for the narrow range is to target only those municipalities in St. Louis County and to exclude all other municipalities in Missouri.

55. There is no reasonable basis, much less a substantial justification, for SB 5's imposition of these new and onerous administrative burdens on only those municipalities located in St. Louis County while turning a blind eye to the rest of the state.

56. The St. Louis municipalities that fail to comply with SB 5 Section 67.287 run the risk of disincorporation pursuant to SB 5 Section 67.287.3(2).

57. Plaintiffs will be severely damaged by the financial burden of complying with SB 5's unfunded mandate.

58. Accordingly, SB 5 Section 67.287 will cause all Plaintiffs, except the Taxpayer Plaintiffs, to suffer immediate and irreparable harm.

WHEREFORE, Plaintiffs demand: (a) a declaratory judgment that SB 5 Section 67.287 is an invalid special law in violation of Article III Section 40 of the Missouri Constitution; and (b) a preliminary and permanent injunction prohibiting the enforcement of SB 5 Section 67.287.

**Count III – Violation of Article X Sections 16 and 21 of the Missouri Constitution  
Hancock Amendment  
(Taxpayer Plaintiffs v. All Defendants)**

59. Taxpayer Plaintiffs reallege, restate and incorporate herein by reference paragraphs 1 through 58 of this Petition as if fully set forth at length herein.

60. Article X Sections 16 and 21 of the Missouri Constitution provide in relevant part that:

The state is prohibited from requiring any new or expanded activities by counties and other political subdivisions without full state financing, or from shifting the tax burden to counties and other political subdivisions.

\* \* \*

A new activity or service or an increase in the level of any activity or service beyond that required by existing law shall not be required by the general assembly or any state agency of counties or other political subdivisions, unless a state appropriation is made

and disbursed to pay the county or other political subdivision for any increased costs.

These provisions are known as the “Hancock Amendment.”

61. SB 5 Section 67.287 mandates that only the municipalities located in St. Louis County perform the following new and expensive administrative activities:

(a) Provision of “an annual audit by a certified public accountant of the finances of the municipality,” including “a report on the internal controls utilized by the municipality and prepared by a qualified financial consultant that are implemented to prevent misuse of public funds”;

(b) Provision of a report demonstrating that the municipality’s “current procedures . . . show compliance with or reasonable exceptions to the recommended internal controls”;

(c) Provision of “a cash management and accounting system that accounts for all revenues and expenditures”;

(d) Purchase of “adequate levels of insurance to minimize risk”;

(e) Provision of public access to a complete set of municipal ordinances;

(f) Provision of accreditation or certification for the municipal police force;

and

(g) Provision of written policies regarding the safe operation of emergency vehicles, safe operation of police pursuits, use of force by police officers, general orders for the police department and collecting and reporting all municipal crime and police stop data and forwarding such to the Attorney General.

62. SB 5 Section 67.287 imposes these new requirements on only the municipalities located in St. Louis County.

63. Only the municipalities located in St. Louis County will incur new and increased costs in complying with SB 5 Section 67.287.

64. SB 5 does not authorize a state appropriation to pay only the municipalities located in St. Louis County for the increased cost in complying with SB 5 Section 67.287. Indeed, SB 5 does just the opposite by decreasing their municipal revenues by reducing the amount of fines the municipalities can collect from minor traffic violations.

65. Plaintiffs will be forced to reduce municipal services to compensate for SB 5's unfunded mandate.

66. Taxpayer Plaintiffs are taxpayers in the Cities of Normandy, Missouri and Pagedale, Missouri and will be injured by the violation of the Hancock Amendment.

67. The St. Louis County municipalities that fail to comply with SB 5 Section 67.287 run the risk of disincorporation pursuant to SB 5 Section 67.287.3(2).

68. Accordingly, SB 5 Section 67.287 will cause Taxpayer Plaintiffs to suffer immediate and irreparable harm.

WHEREFORE, Taxpayer Plaintiffs demand: (a) a declaratory judgment that SB 5 Section 67.287 is an invalid unfunded mandate in violation of Article X Sections 16 and 21 of the Missouri Constitution; (b) a preliminary and permanent injunction prohibiting the enforcement of SB 5 Section 67.287; and (c) their reasonable attorneys' fees.

**Count IV – Violation of Article X Sections 16 and 21 of the Missouri Constitution  
Hancock Amendment  
(Taxpayer Plaintiffs v. All Defendants)**

69. Taxpayer Plaintiffs reallege, restate and incorporate herein by reference paragraphs 1 through 68 of this Petition as if fully set forth at length herein.

70. Article X Sections 16 and 21 of the Missouri Constitution provide in relevant part that:

The state is prohibited from requiring any new or expanded activities by counties and other political subdivisions without full state financing, or from shifting the tax burden to counties and other political subdivisions.

\* \* \*

A new activity or service or an increase in the level of any activity or service beyond that required by existing law shall not be required by the general assembly or any state agency of counties or other political subdivisions, unless a state appropriation is made and disbursed to pay the county or other political subdivision for any increased costs.

71. Prior to SB 5, each political subdivision was required to submit to the state auditor an annual report of its financial transactions.

72. SB 5 Section 479.359.3 adds to the amount of information which a municipality must report to the state auditor by requiring them to attach an “addendum” to the annual financial report, including the following new information: (i) its “annual general operating revenue” as defined in SB 5; (ii) its “total revenues from fines, bond forfeitures, and court costs for minor traffic violations”; and (iii) “the percent of annual general operating revenues from fines, bond forfeitures, and court costs for minor traffic violations.”

73. The addendum and the contents thereof are a new and increased level of reporting over the requirements in place prior to the enactment of SB 5.

74. SB 5 Section 479.359.3 also requires that the addendum “be certified and signed by a representative with knowledge of the subject matter as to the accuracy of the addendum contents, under oath and under the penalty of perjury, and witnessed by a notary public.” There is no existing requirement that a municipality’s annual financial report be certified or notarized.

75. Municipalities will incur significantly increased costs in complying with SB 5 Section 479.359.3 by calculating the new financial figures, preparing the addendum to the annual financial report, and certifying the addendum.

76. SB 5 does not authorize a state appropriation to pay municipalities for the increased cost of preparing the addendum to the annual financial report. Indeed, SB 5 does just the opposite by decreasing municipal revenues by reducing the amount of fines the municipalities can collect from minor traffic violations.

77. Plaintiffs will be forced to reduce municipal services to compensate for SB 5's unfunded mandate.

78. Taxpayer Plaintiffs are taxpayers in the Cities of Normandy, Missouri and Pagedale, Missouri and will be injured by the violation of the Hancock Amendment.

79. The St. Louis County municipalities that fail to comply with SB 5 Section 479.359 run the risk of disincorporation pursuant to SB 5 Section 479.368.3.

80. Accordingly, SB 5 Section 479.359 will cause Taxpayer Plaintiffs to suffer immediate and irreparable harm.

WHEREFORE, Taxpayer Plaintiffs demand: (a) a declaratory judgment that SB 5 Section 479.359 is an invalid unfunded mandate in violation of Article X Sections 16 and 21 of the Missouri Constitution; (b) a preliminary and permanent injunction prohibiting the enforcement of SB 5 Section 479.359; and (c) their reasonable attorneys' fees.

**Count V – Violation of Article II Section 1 of the Missouri Constitution  
Separation of Powers**

**(All Plaintiffs Except Taxpayer Plaintiffs v. All Defendants)**

81. Plaintiffs reallege, restate and incorporate herein by reference paragraphs 1 through 80 of this Petition as if fully set forth at length herein.

82. Article II Section 1 of the Missouri Constitution provides in relevant part:

The powers of government shall be divided into three distinct departments--the legislative, executive and judicial--each of which shall be confided to a separate magistracy, and no person, or collection of persons, charged with the exercise of powers properly belonging to one of those departments, shall exercise any power

properly belonging to either of the others, except in the instances in this constitution expressly directed or permitted.

83. Under SB 5 Section 479.359.2, the collection of fines, bond forfeitures and court costs from minor traffic violations may not exceed 12.5% of a St. Louis County municipality's annual general operating revenue.

84. Under SB 5 Section 479.359.2, municipalities located in the remaining 113 counties may generate up to 20% of their annual general operating revenue from fines, bond forfeitures and court costs from minor traffic violations.

85. Under SB 5 Section 479.359.1, a municipality must remit to the director of the department of revenue all fines, bond forfeitures and court costs from minor traffic violations in excess of the applicable rate.

86. Under SB 5 Section 479.359.3, each municipality must certify its compliance with the revenue reductions in an addendum to the annual financial report submitted to the state auditor.

87. Under SB 5 Section 479.362.5, if a municipality fails to file the addendum to the annual financial report or remit the excess fines, "the director of the department of revenue shall send a notice of the noncompliance to the presiding judge of the circuit court in which [the non-compliant municipality] is located, and the presiding judge of the circuit court shall immediately order the clerk of the municipal court to certify all pending matters in the municipal court [until such municipality is in compliance]."

88. Supervision of the inferior courts is a power which the Missouri Constitution specifically reserves for the Supreme Court and the Court of Appeals pursuant to Article V Section 4.

89. By sending the notice of noncompliance, the director of the department of revenue is supervising the Circuit and Municipal Courts and is usurping the supervisory powers conferred on the judiciary by the Missouri Constitution.

90. By sending the notice of noncompliance, the director of the department of revenue is sanctioning the Municipal Court based on the conduct of the municipality.

91. By ordering the Circuit Court to order the Municipal Court to certify all pending matters, the Circuit and Municipal Courts are submitting to the supervision of the director of the department of revenue.

92. Plaintiffs' ability to collect fines for violation of duly enacted ordinances will be damaged by the interference of the director of the department of revenue in the operation of the Circuit and Municipal Courts.

93. Accordingly, SB 5 Sections 479.359 and 479.362 will cause all Plaintiffs, except the Taxpayer Plaintiffs, to suffer immediate and irreparable harm.

WHEREFORE, Plaintiffs demand: (a) a declaratory judgment that SB 5 Sections 479.359 and 479.362 are invalid pursuant to Article II Section 1 of the Missouri Constitution; and (b) a preliminary and permanent injunction prohibiting the enforcement of SB 5 Sections 479.359 and 479.362.

**Count VI – Violation of Article II Section 1 of the Missouri Constitution  
Separation of Powers  
(All Plaintiffs Except Taxpayer Plaintiffs v. All Defendants)**

94. Plaintiffs reallege, restate and incorporate herein by reference paragraphs 1 through 93 of this Petition as if fully set forth at length herein.

95. Article II Section 1 of the Missouri Constitution provides in relevant part:

The powers of government shall be divided into three distinct departments--the legislative, executive and judicial--each of which shall be confided to a separate magistracy, and no person, or

collection of persons, charged with the exercise of powers properly belonging to one of those departments, shall exercise any power properly belonging to either of the others, except in the instances in this constitution expressly directed or permitted.

96. SB 5 Section 479.360.1 establishes new rules of procedure for the Municipal Courts, including:

- (a) Defendants in custody must have an opportunity to be heard by a judge no later than 48 hours on minor traffic violations and no later than 72 hours on other violations and, if not, released;
- (b) Defendants shall not be held in custody for more than 24 hours without a warrant after arrest;
- (c) Indigent defendants may present evidence of their financial condition, and the court must take that evidence into account when determining fines and costs;
- (d) Municipal Courts may only assess fines and costs as authorized by law;
- (e) No additional charge shall be issued for the failure to appear for a minor traffic violation;
- (f) Municipal Courts must conduct proceedings in a courtroom that is open to the public;
- (g) Municipal Courts must make use of alternative payment plans and community service alternatives; and
- (h) Municipal Courts must adopt an electronic payment system or payment by mail for the payment of minor traffic violations.

97. Under SB 5 Section 479.360.1, the Judge of each Municipal Court must annually certify the court's substantial compliance with these new procedures in a signed addendum to the municipality's annual financial report.

98. Under SB 5 Section 479.362.5, if the Municipal Court fails to certify its substantial compliance with the new procedures, "the director of the department of revenue shall send a notice of noncompliance to the presiding judge of the circuit court in which [the non-compliant municipality] is located, and the presiding judge of the circuit court shall immediately

order the clerk of the municipal court to certify all pending matters in the municipal court [until such municipality is in compliance].”

99. While the new procedural rules are commendable, supervision of the inferior courts is a power which the Missouri Constitution specifically reserves for the Supreme Court and the Court of Appeals pursuant to Article V Section 4.

100. By sending the notice of noncompliance, the director of the department of revenue is supervising the Circuit and Municipal Courts and is usurping the supervisory powers conferred on the judiciary by the Missouri Constitution.

101. By ordering the Municipal Courts to adopt the new procedural rules, the legislature has usurped a role belonging exclusively to the Supreme Court.

102. Plaintiffs’ ability to collect fines for violation of duly enacted ordinances will be damaged by the interference of the director of the department of revenue in the operation of the Circuit and Municipal Courts.

103. Accordingly, SB 5 Sections 479.360 and 479.362 will cause all Plaintiffs, except the Taxpayer Plaintiffs, to suffer immediate and irreparable harm.

WHEREFORE, Plaintiffs demand: (a) a declaratory judgment that SB 5 Sections 479.360 and 479.362 are invalid pursuant to Article II Section 1 of the Missouri Constitution; and (b) a preliminary and permanent injunction prohibiting the enforcement of SB 5 Sections 479.360 and 479.362.

**Count VII – Violations of Article V Section 5 of the Missouri Constitution  
Amendments to the Rules of Criminal Procedure  
(All Plaintiffs Except Taxpayer Plaintiffs v. All Defendants)**

104. Plaintiffs reallege, restate and incorporate herein by reference paragraphs 1 through 103 of this Petition as if fully set forth at length herein.

105. Article V Section 5 of the Missouri Constitution provides in relevant part:

The Supreme Court may establish rules relating to practice, procedure and pleading for all courts and administrative tribunals, which shall have the force and effect of law.... Any rule may be annulled or amended in whole or in part by a law limited to the purpose.

106. The Missouri Rules of Criminal Procedure apply to the prosecution of municipal ordinances in Municipal Court.

107. SB 5 Section 479.360.1 purports to amend the Rules of Criminal Procedure as they apply in Municipal Court as follows:

- (a) Defendants in custody must have an opportunity to be heard by a judge no later than 48 hours on minor traffic violations and no later than 72 hours on other violations;
- (b) Defendants shall not be held in custody for more than 24 hours without a warrant after arrest;
- (c) Indigent defendants may present evidence of their financial condition, and the court must take that evidence into account when determining fines and costs;
- (d) Municipal Courts may only assess fines and costs as authorized by law;
- (e) No additional charge shall be issued for the failure to appear for a minor traffic violation;
- (f) Municipal Courts must conduct proceedings in a courtroom that is open to the public;
- (g) Municipal Courts must make use of alternative payment plans and community service alternatives; and
- (h) Municipal Courts must adopt an electronic payment system or payment by mail for the payment of minor traffic violations.

108. SB 5 Section 479.360.1 does not expressly refer to or identify the rules it purports to amend.

109. In addition to purporting to amend the Rules of Criminal Procedure as they apply to Municipal Courts, SB 5 addresses, among other issues, the following unrelated subjects:

- (a) Governance standards of municipalities located in St. Louis County;

- (b) Limitations on the amount of revenue municipalities may collect from minor traffic violations;
- (c) Distribution of revenue collected from minor traffic violations;
- (d) Municipal financial reporting requirements;
- (e) Municipal Court jurisdiction; and
- (f) Distribution of sales tax revenue.

110. SB 5 was not enacted just for the limited purpose of amending a Rule of Criminal Procedure.

111. By failing to identify the Criminal Rules SB 5 Section 479.360.1 purports to amend and by failing to limit SB 5 to the purpose of amending identified Criminal Rules, SB 5 Section 479.360.1 violates Article V Section 5 of the Missouri Constitution.

112. The new rules will limit plaintiffs' ability to prosecute minor traffic violations and collect fines therefor, thereby injuring plaintiffs.

113. Accordingly, SB 5 Section 479.360 will cause all Plaintiffs, except the Taxpayer Plaintiffs, to suffer immediate and irreparable harm.

WHEREFORE, Plaintiffs demand: (a) a declaratory judgment that SB 5 Section 479.360 is invalid pursuant to Article V Section 5 of the Missouri Constitution; and (b) a preliminary and permanent injunction prohibiting the enforcement of SB 5 Section 479.360.

**Count VIII – Violation of Article V Section 27(16) of the Missouri Constitution**  
**Right to Retain Fines**  
**(All Plaintiffs Except Taxpayer Plaintiffs v. All Defendants)**

114. Plaintiffs reallege, restate and incorporate herein by reference paragraphs 1 through 113 of this Petition as if fully set forth at length herein.

115. Article V Section 27(16) of the Missouri Constitution provides in relevant part:

A municipal corporation with a population of under four hundred thousand shall have the right to enforce its ordinances and to

conduct prosecutions before an associate circuit judge in the absence of a municipal judge and in appellate courts under the process authorized or provided by this article and shall receive and retain any fines to which it may be entitled.

116. Under SB 5 Section 479.359.2, the collection of fines, bond forfeitures and court costs from minor traffic violations may not exceed 12.5% of a St. Louis County municipality's annual general operating revenue.

117. Under SB 5 Section 479.359.2, municipalities located in the remaining 113 counties may generate up to 20% of their annual general operating revenue from fines, bond forfeitures and court costs from minor traffic violations.

118. Under SB 5 Section 479.359.1, a municipality must remit to the director of the department of revenue all fines, bond forfeitures and court costs from minor traffic violations in excess of the applicable rate.

119. Under SB 5 Section 479.359.3, each municipality must certify its compliance with the revenue reductions in an addendum to the annual financial report submitted to the state auditor.

120. Under SB 5 Section 479.362.5, if a municipality fails to file the addendum to the annual financial report, the Circuit Court, at the direction of the director of the department of revenue, shall "certify" the Municipal Court and assume all of its pending matters.

121. Under SB 5 Section 479.362.5, during the period when Municipal Court matters are reassigned to the Circuit Court, all fines, bond forfeitures and court costs collected for violations of municipal ordinances shall be paid to the director of the department of revenue, and the municipality will not be entitled to the revenue.

122. Each City Plaintiff is a municipal corporation with a population under 400,000.

123. Plaintiffs will be damaged by their inability to receive and retain fines to which they are entitled under lawfully enacted ordinances.

124. Accordingly, SB 5 Sections 479.359 and 479.362 will cause all Plaintiffs, except the Taxpayer Plaintiffs, to suffer immediate and irreparable harm.

WHEREFORE, Plaintiffs demand: (a) a declaratory judgment that SB 5 Sections 479.359 and 479.362 interfere with their ability to receive and retain fines in violation of Article V Section 27(16) of the Missouri Constitution; and (b) a preliminary and permanent injunction prohibiting the enforcement of SB 5 Sections 479.359 and 479.362.

**Count IX – Violation of Article III Section 23 of the Missouri Constitution**  
**Single Subject**  
**(All Plaintiffs Except Taxpayer Plaintiffs v. All Defendants)**

125. Plaintiffs reallege, restate and incorporate herein by reference paragraphs 1 through 124 of this Petition as if fully set forth at length herein.

126. Article III Section 23 of the Missouri Constitution provides in relevant part:

No bill shall contain more than one subject which shall be clearly expressed in its title ....

127. The title of SB 5 is “Local Government.”

128. SB 5 regulates not just local government activities, but, in addition, the jurisdiction of the Municipal Courts and the Rules of Criminal Procedure applicable in the Municipal Courts.

129. Accordingly, SB 5 is not limited to a single subject as required by the Missouri Constitution.


130. Plaintiffs will be injured by the significant costs of complying with SB 5 and the reduced revenue which SB 5 permits plaintiffs to collect.

131. Accordingly, the non-local government provisions of SB 5 will cause all Plaintiffs, except the Taxpayer Plaintiffs, to suffer immediate and irreparable harm.

WHEREFORE, Plaintiffs demand: (a) a declaratory judgment that the non-local government provisions of SB 5 are invalid pursuant to Article III Section 23 of the Missouri Constitution; and (b) a preliminary and permanent injunction prohibiting the enforcement of the non-local government provisions of SB 5.

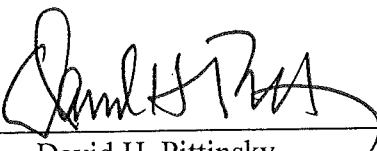
Respectfully submitted,

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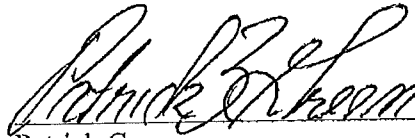
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Attorneys for Plaintiffs


**VERIFICATION**

STATE OF MISSOURI :  
: SS  
COUNTY OF ST. LOUIS :

I, Patrick Green, both in my capacity as the Mayor of Normandy, Missouri on behalf of plaintiff City of Normandy and in my capacity as a plaintiff taxpayer in the City of Normandy, Missouri, hereby verify that the facts set forth in the foregoing Petition are true and correct to the best of my knowledge, information and belief.

  
Patrick Green

Subscribed and sworn to before me this 18<sup>th</sup> day of November, 2015.

  
Notary Public

My Commission Expires:

