

**New Legislation of Municipal Interest** – The General Assembly passed several bills that impact Missouri municipalities in the recently-ended legislative session:

**Telecommunications and Rights-of-Way (SB 649, SB 650, SB 653):** These bills contain significant changes to the laws related to rights-of-way management, zoning of wireless facilities, and attachments to municipal utility poles similar to those contained in 2013’s HB 331 & HB 345, as reported in [Report 2013-2](#). HB 331 and HB 345 were struck down last year as unconstitutional, as reported in [Report 2013-3](#). NOTE: The true impact and effect of the 2014 bills cannot in this case be discerned solely from the 2014 bills due to the Legislature’s failure to comply with Constitutional requirement to show all of the actual changes being made to existing law.

**Public Works (SB 529):** This act changes [§ 107.170 RSMo.](#) regarding payment bonds for public works contracts. It increases the minimum amount of a project for which a general contractor must supply a payment bond from \$25,000 to \$50,000. The act also modifies the Public Prompt Payment Act ([§ 34.057 RSMo.](#)), providing that a public owner may retain only up to 5% of the value of a public works contract if the contractor is required to obtain a payment bond under § 107.170 RSMo. Public owners can only retain up to 10% if no payment bond is required, eliminating the former option to retain up to 10% on all contracts if determined to be necessary by the public owner and its architect or engineer. Other changes include the modification of the procedures for securing completion of punch-list items and the extension of the Prompt Payment Act to include contracts with engineers, architects, landscape architects, and surveyors.

**LAGERS Switch-Over (SB 675):** This bill allows political subdivisions, at their option, to “irrevocably” transfer their closed pensions systems to the state-operated LAGERS system if some or all of their current employees are already covered by LAGERS. LAGERS then “assumes all duties and responsibilities of operating the employer’s prior plan.”

**TIF (HB 1504):** Under this bill, if voters in a taxing district approve an increase in either ad valorem property tax rates or sales/use tax rates after a TIF project is approved, the additional revenue received by a taxing jurisdiction due to the increased tax rate will not be included as part of the increment that the TIF project receives, unless the taxing district approves the use of such revenues for the TIF project. The bill also appears to exempt county capital improvement taxes designated for emergency communications systems from the increased tax increment available for TIF projects approved after August 28, 2013, perhaps even retroactively.

**Elections (SB 593):** This act allows towns, villages, and cities with less than 1,000 inhabitants to pass an ordinance foregoing nonpartisan municipal elections when the number of candidates who have filed is equal to the number of positions to be filled, which must renewed every six years.

**This legislative summary is not exhaustive. Additional information can be found on the [Missouri Municipal League's website](#).**

**Supreme Court Blesses Prayer at the Start of Town Meetings** – The U.S. Supreme Court held that a town’s practice of prayer at the start of a town meeting did not violate the U.S. Constitution in [Town of Greece, N.Y. v. Galloway](#). The Court held that prayer can even be sectarian, provided that there is no policy of discrimination, persons of any faith may present, the prayers are given at the beginning of the meeting, the prayers are intended to elevate and solemnize the proceedings, and the purpose is not to proselytize or condemn non-believers or religious minorities. The Court warned that not all instances of prayer would be constitutional, and that these cases are highly fact-specific and should be reviewed based on the “pattern of prayers over time” rather than the content of any single prayer.

**SEC Offers Self-Reporting Initiative for Misrepresentations Related to Bonds** – The U.S. Securities and Exchange Commission (the “SEC”) has announced an initiative to allow municipal bond issuers to self-report misrepresentations made in Official Statements about the issuer’s previous compliance with continuing disclosure obligations within the last five years. Issuers generally make a representation in a bond’s Official Statement that they have complied with all previous agreements to make continuing disclosures for prior bond issuances (such as filing annual financial statements on the MSRB’s EMMA database). However, if the issuer has not in fact fulfilled prior continuing disclosure obligations, this statement may be a misrepresentation for which the issuer could be liable under securities law.

The SEC is currently offering a program whereby the SEC would recommend favorable settlements with issuers who made misrepresentations in Official Statements if the issuers self-report such inaccurate statements prior to September 10, 2014. While timely self reporting could result in a SEC enforcement proceeding against the issuer, penalties would be lighter, and would likely avoid financial penalties. Individual officers and employees of the issuer, however, could still face liability. Discovery of non-reported misrepresentations after the September 10 deadline would likely result in much harsher penalties, including likely financial penalties. Municipalities that have publicly issued bonds in the last five years may, therefore, wish to conduct a review of the accuracy of any statements regarding continuing disclosure obligations in the Official Statements of those bonds. Note: any self-reporting and information provided to the SEC could be made public or provided to state or local enforcement agencies. Municipalities should contact CVR or other bond counsel for assistance. For more information, see the SEC’s [Municipalities Continuing Disclosure Cooperation Initiative webpage](#).

**Representation of Statutory Entities by Lawyers in Certain Municipal Proceedings** – The Missouri Supreme Court recently reiterated that statutory entities—corporations, LLCs, limited partnerships, etc.— must be represented by licensed attorneys in judicial proceedings. [Naylor Senior Citizens Housing, LP v. Side Construction Co., Inc.](#), 423 S.W.3d 238 (Mo. 2014). Accordingly, your city may wish to explore options to ensure that such entities are represented by counsel in adjudicatory municipal proceedings (such as appeals to the board of adjustment) where appropriate and necessary. City Prosecutors may also want to raise and preserve unauthorized practice of law issues in municipal court proceedings.

**Beware of Indemnity Ordinances** – A recent case suggests municipalities should be cautious when drafting ordinances that provide indemnity to officers and employees. In [Kershaw v. City of Kansas City, No. WD76864 \(Mo. App. May 6, 2014\)](#), one city employee was injured by another while they were operating snow plows for the city. The court held that the city’s indemnification ordinance, which was mandatory, required the city to pay the judgment the injured employee obtained against the other employee. Accordingly, cities with ordinances that mandate indemnification of employees and officers may wish to reconsider whether it should instead be at the city’s option, and whether they should specifically exclude indemnification for co-employee liability.

**Kimberley Diamond Joins CVR as a Principal** – CVR is pleased to announce that a new attorney, Kim Diamond, has joined CVR as a principal with the firm. She will represent the firm’s clients in real estate matters, bond transactions, and municipal finance. Kim has 20 years of experience representing clients in real estate and finance transactions and has represented political subdivisions as issuer’s counsel in over \$100,000,000 in public financings.

**Presentations by CVR Attorneys** – The following recent and upcoming educational presentations and resources from CVR attorneys are available for your review:

[Legal Aspects of Subpoenas, Record Retention, Sunshine Requests, and More!](#) (Missouri Police Clerks Conference)– [Paul Rost](#) and [Steve Kratky](#)

UPCOMING – [Know Your Boards and Commissions](#) (Municipal Official Training Academy) – [Paul Rost](#)

UPCOMING – [Selected Best Practices for Municipal Attorneys](#) (Missouri Municipal Attorneys Association Summer Seminar) – [Erin Seele](#)

UPCOMING – [Responsibilities After Bonds are Issued](#) (Municipal Official Training Academy) – [Kristen Erickson](#)

**Feedback** – Please let us know how we are doing. If you have suggestions for improving these Municipal Issue Reports, please let us know at the contacts below.

If you need further assistance on any of these matters, please consult your City Attorney or Legal Department for particularized guidance or contact us at:

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To access previous reports on our website: [CLICK HERE](#).

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## Upcoming Dates & Deadlines for Missouri Municipalities\*

**Between 1 and 4 weeks before July City Council meeting (Third Class Cities)** – Publish newspaper notice that bids for City depository will be received.

**June 17 (45 days before 1<sup>st</sup> Friday in Aug.)** – Notify Dept. of Revenue of ordinance *opting out* of Back to School Sales Tax Holiday (at option of City).

**July Meeting of City Council (Third Class Cities)** – Select depository for one year term.

**Mid-Late August** – Conduct public hearing on property tax rate with 7-day newspaper notice (for Cities not in charter counties).

**August 28** – New state statutes go into effect (unless passed as emergency legislation or later date is provided in statute).

**September 1** – Set property tax levy (for Cities not in charter counties).

\*This list is not exhaustive. For the complete **Calendar of Procedural Deadlines for Missouri Municipalities**, click below:

[Jan. 1–Dec. 31 Fiscal Year](#)

[July 1–June 30 Fiscal Year](#)

Also see CVR’s

[Annual Requirements for Missouri Municipal Special Purpose Entities](#)

## Municipal Links

[Missouri Municipal League](#)

[St. Louis County Municipal League](#)

[Mid-America Regional Council \(KC Area\)](#)

[East-West Gateway Council of Governments](#)

For more, visit CVR’s [Resources Page](#)