

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 5174S.02I
 Bill No.: SB 1362
 Subject: Counties; County Government; County Officials; Department of Revenue;
 Newspapers and Publications
 Type: Original
 Date: February 11, 2024

Bill Summary: This proposal modifies provisions relating to financial statements of certain local governments.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2025	FY 2026	FY 2027
General Revenue*	(Unknown, could exceed \$3,013,881)	\$0 to (Unknown)	\$0 to (Unknown)
Total Estimated Net Effect on General Revenue	(Unknown, could exceed \$3,013,881)	\$0 to (Unknown)	\$0 to (Unknown)

*Part of the fiscal impact to the state is the potential loss of the Department of Revenue’s 2% collection fee. Oversight has ranged the impact from \$0 (debt is already considered uncollectible and DOR would not have received the 2% fee even without this proposal) to \$3,013,881 (which represents if DOR would have collected 100% of the \$150 million of outstanding debt allowed to be reduced by this proposal). **Oversight** assumes the **actual** loss to the state for these provisions is on the very low end of this range.

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2025	FY 2026	FY 2027
Total Estimated Net Effect on <u>Other</u> State Funds	\$0	\$0	\$0

Numbers within parentheses: () indicate costs or losses.

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2025	FY 2026	FY 2027
Total Estimated Net Effect on <u>All</u> Federal Funds	\$0	\$0	\$0

ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)			
FUND AFFECTED	FY 2025	FY 2026	FY 2027
Total Estimated Net Effect on FTE	0	0	0

- Estimated Net Effect (expenditures or reduced revenues) expected to exceed \$250,000 in any of the three fiscal years after implementation of the act or at full implementation of the act.
- Estimated Net Effect (savings or increased revenues) expected to exceed \$250,000 in any of the three fiscal years after implementation of the act or at full implementation of the act.

ESTIMATED NET EFFECT ON LOCAL FUNDS			
FUND AFFECTED	FY 2025	FY 2026	FY 2027
Local Government*	Unknown, could exceed \$3,113,881	Unknown, could exceed \$100,000	Unknown, could exceed \$100,000

*(§105.145) Part of the net fiscal impact to the local political subdivision is the potential loss of the Department of Revenue’s 2% collection fee. Oversight has ranged the impact from \$0 (debt is already considered uncollectible and DOR would not have received the 2% fee even without this proposal) to \$3,013,881 (which represents if DOR would have collected 100% of the \$150 million of outstanding debt allowed to be reduced by this proposal). **Oversight** assumes the **actual** impact is on the very low end of this range.

FISCAL ANALYSIS

ASSUMPTION

§§50.815 & 50.820 – County Financial Statements

Officials from the **Office of Administration - Budget and Planning (B&P)** state these provisions modify the requirements associated with the publishing of political subdivision financial statements. B&P defers to the county governments for the fiscal impact of these provisions.

Officials from the **Department of Revenue (DOR)** assume the proposal will have no fiscal impact on their organization. **Oversight** does not have any information to the contrary. Therefore, Oversight will reflect a zero impact in the fiscal note.

In response to similar legislation from 2020, HB 1814, officials at **Henry County** assumed a savings of \$1,800 annually in publication costs from this proposal.

Oversight inquired with Henry County regarding this proposal. The County currently submits a 14 page document to the newspaper which lists out every dollar by vendor. Since this proposal requires a summary of data to be published in the newspaper, Henry County's publishing costs would be reduced as the number of pages would be reduced that would be submitted to the newspaper.

In response to similar legislation from 2020, HB 1814, officials at **Lincoln County** assumed a savings of \$2,000 annually in publication costs from this proposal.

In response to similar legislation from 2020, HB 1814, officials at **Livingston County** assumed a savings of \$2,500 annually in publication costs from this proposal.

Oversight assumes using the counties above as an example, if the average savings of the three counties publication costs is \$2,100 and 96 counties (2nd, 3rd and 4th class counties) in Missouri published their financials in the newspaper, the potential savings could be up to \$201,600 (\$2,100 * 96) per year. Therefore, Oversight will reflect a potential savings in publication costs for counties to post their financials through a newspaper of general circulation in their county that could exceed \$100,000 annually from this proposal.

§105.145 – Financial Statements of Political Subdivisions

Officials from the **Office of Administration - Budget and Planning (B&P)** state this proposal excludes the fine for failure to submit annual financial statements for political subdivisions with gross revenues of less than \$5,000, or for political subdivisions that have not levied or collected sales or use taxes in the fiscal year. This may result in a revenue loss for both the state and schools.

It also provides grace from fines if the failure to timely submit the annual financial statement is the result of fraud or other illegal conduct and allows a refund by DOR of any fines already paid under these circumstances. The 90% downward adjustment DOR is allowed to make on outstanding fine or penalty balances after January 1, 2023 results in the amount of collections being reduced for both the state and DOR collection fees. A similar downward adjustment may be made by DOR if the outstanding fines are deemed uncollectable. These downward adjustments will likewise result in a revenue loss for both the state and schools.

Based on information from DOR, the department started imposing this fine in August 2017. B&P defers to DOR for more specific estimates of fines and actual collection costs.

B&P also states §§50.800 and 50.810 of the proposal associated with the publishing of political subdivision financial statements are repealed.

Officials from the **Department of Revenue (DOR)** state currently local political subdivisions are required to file annual financial statements with the State Auditor's Office. Failure to file those statements results in the political subdivision being assessed a fine of \$500 per day per statutes, which is deposited into local school district funds. DOR notes that the DOR started imposing this fine in August 2017. DOR receives notice from the State Auditor's Office if a political subdivision does not file their annual financial statement. At that time, the DOR sends a notice to the political subdivision and thirty days later the fee starts to accumulate.

The DOR collects the fine by offsetting any sales or use tax distributions due to the political subdivision. In essence the DOR only gets to collect the fee if the political subdivision has a sales or use tax. Most of these political subdivisions do not have a sales or use tax for the DOR to collect, so the DOR assumes much of what is owed is uncollectable. This is not state money but local political subdivision funds.

Currently, a transportation development district that has gross revenues of less than \$5,000 in a fiscal year is not subject to this fine. This provision will be expanded to any political subdivisions that does not levy or collect tax will be exempt from the penalty.

The DOR notes that per statute DOR is allowed to retain 2% of the amount collected for administration. Since the program began, DOR has collected \$107,173 which has been deposited into General Revenue. All DOR collection fees are deposited into General Revenue and are not retained by the DOR.

In regard to the \$500 per day fine, this proposal would not allow for the assessment of the fine if a district does not have gross revenue over \$5,000 or has not levied or collected taxes.

Current records of the DOR show total fines of \$172,796,500 and that \$5,358,662 has been collected. The DOR is showing the assessment of the fines by the political subdivision type and by the county in which the district that owes the fine is located.

County	Sum of Total Fine Imposed	Sum of Total Fine Collected
Adair	\$1,446,000	\$1,500
Andrew	\$430,500	\$0
Atchison	\$1,220,000	\$0
Audrain	\$1,105,500	\$0
Barry	\$3,019,500	\$18,975
Barton	\$0	\$0
Bates	\$1,457,500	\$33,253
Benton	\$710,500	\$0
Bollinger	\$2,854,500	\$0
Boone	\$259,000	\$33,728
Buchanan	\$2,481,000	\$92,823
Butler	\$2,759,500	\$46,825
Caldwell	\$168,000	\$24,533
Callaway	\$862,500	\$3,887
Camden	\$2,663,000	\$52,071
Cape Girardeau	\$803,500	\$0
Carroll	\$5,123,500	\$0
Carter	\$3,475,000	\$270,500
Cass	\$6,929,500	\$9,053
Cedar	\$419,500	\$49,500
Chariton	\$1,024,500	\$41,500
Christian	\$3,370,500	\$0
Clark	\$1,017,000	\$37,500
Clay	\$1,851,000	\$30,500
Clinton	\$1,456,000	\$16,500
Cole	\$998,500	\$7,696
Cooper	\$1,894,500	\$53,644
Crawford	\$2,039,000	\$19,000
Dade	\$227,000	\$0
Dallas	\$1,648,500	\$0
Daviess	\$1,074,000	\$0
Dekalb	\$1,030,500	\$0
Dent	\$214,000	\$0
Douglas	\$0	\$0
Dunklin	\$2,509,000	\$30,674

Franklin	\$2,048,000	\$40,746
Gasconade	\$65,500	\$6,404
Gentry	\$1,737,000	\$0
Greene	\$1,073,000	\$2,503
Grundy	\$1,206,500	\$0
Harrison	\$953,000	\$0
Henry	\$1,516,000	\$77,746
Hickory	\$979,500	\$0
Holt	\$2,799,000	\$11,202
Howard	\$1,277,000	\$147,500
Howell	\$977,500	\$11,000
Iron	\$29,500	\$12,000
Jackson	\$3,034,000	\$446,326
Jasper	\$2,350,500	\$77,182
Jefferson	\$1,788,500	\$23,535
Johnson	\$937,500	\$12,000
Knox	\$1,898,500	\$0
Laclede	\$255,500	\$12,000
Lafayette	\$613,500	\$38,442
Lawrence	\$3,947,000	\$0
Lewis	\$2,613,500	\$0
Lincoln	\$1,847,000	\$42,500
Linn	\$1,670,000	\$15,000
Livingston	\$2,618,000	\$0
Macon	\$504,000	\$0
Madison	\$2,296,500	\$206,476
Maries	\$525,500	\$1,000
Marion	\$347,500	\$0
McDonald	\$200,000	\$1,050
Mercer	\$469,500	\$0
Miller	\$1,094,500	\$8,946
Mississippi	\$1,430,500	\$6,619
Moniteau	\$0	\$0
Monroe	\$42,000	\$10,000
Montgomery	\$698,000	\$3,600
Morgan	\$0	\$0
New Madrid	\$2,436,000	\$147,377
Newton	\$852,500	\$29,282

Nodaway	\$4,094,000	\$19,500
Oregon	\$1,000	\$0
Osage	\$1,108,000	\$16,981
Ozark	\$43,000	\$43,000
Pemiscot	\$3,166,500	\$6,500
Perry	\$2,404,000	\$0
Pettis	\$988,000	\$15,500
Phelps	\$606,500	\$60,034
Pike	\$19,500	\$0
Platte	\$1,684,000	\$281,000
Polk	\$787,500	\$19,500
Pulaski	\$2,442,500	\$17,167
Putnam	\$3,000	\$0
Ralls	\$255,500	\$52,232
Randolph	\$2,149,500	\$10,889
Ray	\$4,284,000	\$0
Reynolds	\$960,500	\$1,911
Ripley	\$224,500	\$0
Saline	\$1,549,500	\$0
Schuyler	\$453,500	\$18,500
Scotland	\$1,300,000	\$0
Scott	\$2,657,500	\$17,000
Shannon	\$287,000	\$160,282
Shelby	\$15,500	\$15,500
St. Charles	\$2,419,500	\$132,787
St. Clair	\$3,108,000	\$341
St. Francois	\$449,000	\$35,326
St. Louis	\$5,110,500	\$1,540,330
St. Louis City	\$8,186,500	\$239,429
Ste. Genevieve	\$0	\$0
Stoddard	\$2,016,500	\$141,355
Stone	\$1,318,000	\$88,500
Sullivan	\$1,030,500	\$0
Taney	\$2,814,500	\$36,500
Texas	\$1,497,500	\$42,500
Vernon	\$2,399,000	\$12,000
Warren	\$10,500	\$10,500
Washington	\$856,500	\$12,000

Wayne	\$1,235,500	\$1,438
Webster	\$566,000	\$0
Worth	\$96,000	\$0
Wright	\$0	\$0
(blank)	\$524,500	\$46,066
Grand Total	\$172,796,500	\$5,358,662

This proposal would result in fewer future fines being assessed. As stated previously, many of these current political subdivisions do not have any sales or use tax collected, so they may be able to avoid the current large penalties.

This proposal also allows for a one-time reduction of a political subdivision's current outstanding balance. Should a political subdivision file its reports by August 28, 2024, they will be entitled to a one-time downward adjustment of their existing fine by 90%.

The current outstanding balance is \$167,437,838 (\$172,796,500 owed - \$5,358,662 collected). This is money the DOR notes is owed, but most likely uncollectable. Should it be collected, it would be forwarded to the local school district funds. If all the fine money is eligible for the one-time reduction this would result in \$150,694,052 ($\$167,437,838 * .90$) no longer being owed.

Oversight notes if all political subdivisions file their report and receive the reduction, it would be a loss of \$147,680,171 to the local school districts from not receiving the fine money, a loss to the state of \$3,013,881 in collection fees and a gain to the local political subdivisions of \$150,694,052 ($\$167,437,838 * 90\%$).

Reducing the future fines would help save the local political subdivisions money, however; due to the un-collectability of most of this money the DOR assumes no additional impact to the state.

Oversight does not have any information to the contrary. Therefore, Oversight will reflect a potential loss of fine revenue stated by DOR to the General Revenue Fund for this proposal. Also, Oversight notes that because of the new language for certain local political subdivisions who have gross revenues of less than \$5,000 or who have not levied or collected a sales and use tax in the fiscal year or if the failure to file a financial statement is the result of fraud or illegal conduct by an employee or officer of the political subdivision and the political subdivision complies with filing the financial statement within thirty days of the discovery of the fraud or illegal conduct, then the fine shall not be assessed and could result in a savings to local political subdivisions on fine fees. Therefore, Oversight will also reflect a savings to local political subdivisions of \$0 to unknown for this proposal.

Oversight also notes this proposal is allowing a political subdivision that files its financial statement before August 28, 2024 to receive a one-time 90% reduction of their outstanding balance of their fines owed.

Oversight also notes that the loss in fine revenue collected by DOR would result in a savings to the local political subdivisions who would no longer need to pay the fine revenue. It would also result in a loss of revenue to School Districts from these fines no longer being collected. Therefore, Oversight will reflect a savings to local political subdivisions on the fines no longer being collected and a loss of 98% of the fine revenue no longer going to the school districts for this proposal. Oversight notes that the DOR is allowed to retain two percent of the fine revenue collected (per §105.145.11). Oversight assumes a large majority of the \$167,437,838 of outstanding fines to be uncollectible. Therefore, Oversight will range the fiscal impact from this proposal from \$0 to DOR's estimates.

Responses regarding the proposed legislation as a whole

Officials from the **Department of Corrections**, the **Missouri Highway Patrol**, the **Missouri Department of Transportation**, **Kansas City**, the **City of O'Fallon**, **Jackson County Board of Elections**, the **Platte County Board of Elections**, the **St. Louis City Board of Elections**, the **St. Louis County Board of Elections**, the **Christian County Auditor's Office**, the **Clay County Auditor's Office**, the **Phelps County Sheriff's Office**, the **Office of the State Auditor** and the **Joint Committee on Administrative Rules** each assume the proposal will have no fiscal impact on their respective organizations. **Oversight** does not have any information to the contrary. Therefore, Oversight will reflect a zero impact in the fiscal note for these agencies.

Officials from the **Office of the Secretary of State (SOS)** note many bills considered by the General Assembly include provisions allowing or requiring agencies to submit rules and regulations to implement the act. The SOS is provided with core funding to handle a certain amount of normal activity resulting from each year's legislative session. The fiscal impact for this fiscal note to the SOS for Administrative Rules is less than \$5,000. The SOS recognizes that this is a small amount and does not expect that additional funding would be required to meet these costs. However, the SOS also recognizes that many such bills may be passed by the General Assembly in a given year and that collectively the costs may be in excess of what the office can sustain with its core budget. Therefore, the SOS reserves the right to request funding for the cost of supporting administrative rules requirements should the need arise based on a review of the finally approved bills signed by the governor.

<u>FISCAL IMPACT – State Government</u>	FY 2025 (10 Mo.)	FY 2026	FY 2027
GENERAL REVENUE			
<u>Loss</u> – DOR – 2% of collection fee on future potential fines no longer assessed because LPS no longer required to file due to changes in the bill (§105.145) p.8	\$0 to (Unknown)	\$0 to (Unknown)	\$0 to (Unknown)
<u>Loss</u> – DOR – 2% collection fee that may have been collected if not for the one-time decrease of 90% of the outstanding balance from the local political subdivision if they submit a timely financial statement by 1/01/23 (§105.145) p. 8	\$0 or up to (<u>\$3,013,881</u>)	\$0	\$0
ESTIMATED NET EFFECT ON GENERAL REVENUE	<u>(Unknown, could exceed \$3,013,881)</u>	<u>\$0 to (Unknown)</u>	<u>\$0 to (Unknown)</u>

<u>FISCAL IMPACT – Local Government</u>	FY 2025 (10 Mo.)	FY 2026	FY 2027
LOCAL POLITICAL SUBDIVISION			
<u>Savings</u> – in publication costs on financials posted in a newspaper of general circulation (§§50.815 & 50.820) p. 3	Could exceed \$100,000	Could exceed \$100,000	Could exceed \$100,000
<u>Savings</u> – on potential fines for certain LPS (§105.145) p. 8	\$0 to Unknown	\$0 to Unknown	\$0 to Unknown
<u>Loss</u> – School districts receiving less fine revenue (from savings above) (§105.145) p. 8	\$0 to (Unknown)	\$0 to (Unknown)	\$0 to (Unknown)
<u>Savings</u> – on fine revenue that is reduced with a one-time reduction of 90% on the outstanding balance due if they submit a timely financial statement by 8/28/24 (§105.145) p. 8	\$0 or up to \$150,694,052	\$0	\$0
<u>Loss</u> – School Districts – reduction in fine revenue from one-time adjustment of fine revenue (§105.145) p. 8	\$0 or up to (\$147,680,171)	\$0	\$0
ESTIMATED NET EFFECT ON LOCAL POLITICAL SUBDIVISIONS	<u>Unknown,</u> <u>could exceed</u> <u>\$3,113,881</u>	<u>Unknown,</u> <u>could exceed</u> <u>\$100,000</u>	<u>Unknown,</u> <u>could exceed</u> <u>\$100,000</u>

FISCAL IMPACT – Small Business

No direct fiscal impact to small businesses would be expected as a result of this proposal.

FISCAL DESCRIPTION

This act amends the sections of law which was declared unconstitutional in Byrd, et al. v. State of Missouri, et al.

PUBLISHING OF COUNTY FINANCIAL STATEMENTS (Sections 50.815, 50.820, 50.800, & 50.810)

This act changes the date counties shall prepare and publish their financial statements from the first Monday in March to June 30th of each year. Additionally, the county treasurer shall not pay

the county commission until notice is received from the state auditor that the county's financial statement has been published in a newspaper after the first day of July.

This act also requires second, third, and fourth class counties to produce and publish a county annual financial statement in the same manner as counties of the first classification. The financial statement shall include the name, office, and current gross annual salary of each elected or appointed county official.

The county clerk or other county officer preparing the financial statement shall provide an electronic copy of the data used to create the financial statement without charge to the newspaper requesting the data.

Finally, the newspaper publishing the financial statement shall charge and receive no more than its regular local classified advertising rate as published 30 days before the publication of the financial statement.

COUNTY FINANCIAL STATEMENT PENALTIES FOR FAILURE TO FILE (Section 105.145)

Under current law, any transportation development district having gross revenues of less than \$5,000 in a fiscal year for which an annual financial statement was not timely filed to the State Auditor is not subject to a fine.

This act provides that any political subdivision that has gross revenues of less than \$5,000 or that has not levied or collected sales or use taxes in the fiscal year for which the annual financial statement was not timely filed shall not be subject to a fine.

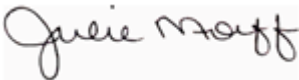
Additionally, if failure to timely submit the annual financial statement is the result of fraud or other illegal conduct by an employee or officer of the political subdivision, the political subdivision shall not be subject to a fine if the statement is filed within 30 days of discovery of the fraud or illegal conduct.

If the political subdivision has an outstanding balance for fines at the time it files its first annual financial statement after August 28, 2022, the Director of Revenue shall make a one-time downward adjustment to such outstanding balance in an amount that reduces the outstanding balance by no less than 90%. If the Director of Revenue determines a fine is uncollectable, the Director shall have the authority to make a one-time downward adjustment to any outstanding penalty.

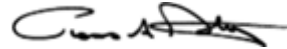
This legislation is not federally mandated, would not duplicate any other program and would not require additional capital improvements or rental space.

SOURCES OF INFORMATION

Office of Administration - Budget and Planning
Department of Revenue
Department of Corrections
Missouri Highway Patrol
Missouri Department of Transportation
Kansas City
City of O'Fallon
Jackson County Board of Elections
Platte County Board of Elections
St. Louis City Board of Elections
St. Louis County Board of Elections
Christian County Auditor's Office
Clay County Auditor's Office
Phelps County Sheriff's Office
Office of the State Auditor
Joint Committee on Administrative Rules
Office of the Secretary of State



Julie Morff
Director
February 11, 2024



Ross Strobe
Assistant Director
February 11, 2024