

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 4303S.02C
 Bill No.: SCS for SB 724
 Subject: Auditor, State; Attorney General; Counties; County Government; County Officials; Political Subdivisions; Department of Revenue
 Type: Original
 Date: March 8, 2022

Bill Summary: This proposal modifies provisions relating to financial statements of political subdivisions.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2023	FY 2024	FY 2025
General Revenue*	\$0 or up to (\$1,834,605)	\$0 to (Unknown)	\$0 to (Unknown)
Total Estimated Net Effect on General Revenue*	\$0 or up to (\$1,834,605)	\$0 to (Unknown)	\$0 to (Unknown)

* 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 \$1,834,605 (which represents if DOR would have collected 100% of the \$91 million of outstanding debt allowed to be reduced by this proposal). **Oversight** assumes the actual loss to the state is on the very low end of this range.

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2023	FY 2024	FY 2025
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 2023	FY 2024	FY 2025
Total Estimated Net Effect on <u>All</u> Federal Funds	\$0	\$0	\$0

ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)			
FUND AFFECTED	FY 2023	FY 2024	FY 2025
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 2023	FY 2024	FY 2025
Local Government*	Unknown, less than \$1,834,605	\$0 to Unknown	\$0 to Unknown

* 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 \$1,834,605 (which represents if DOR would have collected 100% of the \$91 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

§105.145 – Financial statements of political subdivisions

Officials from the **Office of Administration - Budget and Planning (B&P)** state §105.145 of the 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 the Department of Revenue (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 August 28, 2022 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. This proposal directs that the DOR Director shall notify the Attorney General who will initiate a ballot measure that could dissolve political subdivisions that fail to timely submit annual financial statements after August 28, 2022 and before January 31, 2023 or fails to file any financial statement after January 31, 2023. B&P defers to DOR for more specific estimates of fines and actual collection costs.

Officials from the **Department of Revenue (DOR)** state §105.145- Annual Financial Statement (Effective August 28, 2022) provides that 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 Department 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.

DOR collects the fine by offsetting any sales or use tax distributions due to the political subdivisions. 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 Department 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 proposal adds language that any political subdivision with less than \$5,000 in revenue or has not levied or collected sales or use taxes in the fiscal year in which the report is due is not subject to the fine. This will change how the DOR determines the fine.

This proposal also adds a provision that if failure to file the report is a result of fraud or other illegal conduct by an employee of the political subdivision, they will not be subject to the fine.

The DOR notes that per statute, the Department is allowed to retain 2% of the amount collected for administration. Since the program began, DOR has collected \$66,621 (rounded) which has been deposited into General Revenue. All DOR collection fees are deposited into General Revenue and are not retained by the Department.

Current records of the Department show total fines assessed of \$105,253,522 and that \$3,331,032 (rounded) has been collected. The DOR is showing the assessment of the fines by the county in which the district that owes the fine is located.

County	Total Fine Imposed	Total Fine Collected
Adair	\$751,000.00	\$1,500.00
Andrew	\$63,500.00	\$0.00
Atchison	\$855,000.00	\$0.00
Audrain	\$1,014,500.00	\$0.00
Barry	\$1,863,500.00	\$16,202.57
Barton	\$0.00	\$0.00
Bates	\$944,000.00	\$30,500.00
Benton	\$236,500.00	\$0.00
Bollinger	\$1,682,500.00	\$0.00
Boone	\$259,000.00	\$24,588.62
Buchanan	\$1,100,000.00	\$53,342.38
Butler	\$1,624,000.00	\$35,414.25
Caldwell	\$100,000.00	\$15,312.17
Callaway	\$493,000.00	\$2,635.05
Camden	\$1,002,000.00	\$22,360.55
Cape Girardeau	\$280,000.00	\$0.00
Carroll	\$3,127,000.00	\$0.00
Carter	\$1,908,000.00	\$103,500.00
Cass	\$4,128,500.00	\$5,184.54
Cedar	\$221,000.00	\$28,500.00
Chariton	\$659,500.00	\$39,500.00
Christian	\$2,219,500.00	\$0.00
Clark	\$652,000.00	\$37,500.00
Clay	\$1,211,000.00	\$14,500.00
Clinton	\$982,000.00	\$16,500.00
Cole	\$633,000.00	\$5,097.95
Cooper	\$1,220,000.00	\$17,500.00
Crawford	\$1,335,500.00	\$15,500.00
Dade	\$211,500.00	\$0.00
Dallas	\$1,202,500.00	\$0.00
Daviess	\$623,500.00	\$0.00
DeKalb	\$643,500.00	\$0.00
Dent	\$194,500.00	\$0.00
Douglas	\$0.00	\$0.00
Dunklin	\$1,790,000.00	\$14,131.34
Franklin	\$1,357,000.00	\$1,064.01

Gasconade	\$65,500.00	\$5,036.88
Gentry	\$1,372,000.00	\$26.98
Greene	\$705,500.00	\$0.00
Grundy	\$847,500.00	\$0.00
Harrison	\$588,000.00	\$0.00
Henry	\$786,000.00	\$77,296.43
Hickory	\$614,500.00	\$0.00
Holt	\$1,701,000.00	\$10,500.00
Howard	\$888,000.00	\$147,500.00
Howell	\$642,500.00	\$11,000.00
Iron	\$29,500.00	\$12,000.00
Jackson	\$2,060,500.00	\$297,846.94
Jasper	\$327,500.00	\$101,100.62
Jefferson	\$1,203,000.00	\$19,301.01
Johnson	\$589,500.00	\$1,500.00
Knox	\$1,168,500.00	\$0.00
Laclede	\$240,000.00	\$12,000.00
Lafayette	\$283,500.00	\$34,028.54
Lawrence	\$2,699,500.00	\$0.00
Lewis	\$1,583,000.00	\$0.00
Lincoln	\$1,051,500.00	\$31,000.00
Linn	\$795,500.00	\$15,000.00
Livingston	\$1,158,000.00	\$0.00
Macon	\$236,500.00	\$0.00
Madison	\$1,777,500.00	\$79,389.02
Maries	\$118,000.00	\$0.00
Marion	\$55,500.00	\$0.00
McDonald	\$161,500.00	\$0.00
Mercer	\$439,000.00	\$0.00
Miller	\$801,500.00	\$4,598.44
Mississippi	\$101,000.00	\$4,977.98
Moniteau	\$0.00	\$0.00
Monroe	\$42,000.00	\$10,000.00
Montgomery	\$311,000.00	\$3,500.00
Morgan	\$0.00	\$0.00
New Madrid	\$1,631,500.00	\$122,693.96
Newton	\$440,500.00	\$25,500.00

Nodaway	\$2,637,000.00	\$19,500.00
Oregon	\$0.00	\$0.00
Osage	\$610,500.00	\$12,104.21
Ozark	\$43,000.00	\$43,000.00
Pemiscot	\$2,513,000.00	\$6,500.00
Perry	\$1,613,500.00	\$0.00
Pettis	\$599,000.00	\$0.00
Phelps	\$333,500.00	\$50,000.00
Pike	\$19,500.00	\$0.00
Platte	\$890,000.00	\$22,500.00
Polk	\$507,500.00	\$0.00
Pulaski	\$1,327,500.00	\$17,000.00
Putnam	\$3,000.00	\$0.00
Ralls	\$177,500.00	\$38,326.99
Randolph	\$1,177,000.00	\$10,500.00
Ray	\$2,211,500.00	\$0.00
Reynolds	\$595,500.00	\$1,184.60
Ripley	\$342,500.00	\$0.00
Saline	\$849,500.00	\$0.00
Schuyler	\$449,000.00	\$18,500.00
Scotland	\$757,500.00	\$0.00
Scott	\$1,853,000.00	\$620.44
Shannon	\$287,000.00	\$135,998.71
Shelby	\$6,500.00	\$6,500.00
St. Charles	\$1,361,500.00	\$67,084.06
St. Clair	\$2,012,500.00	\$265.88
St. Francois	\$294,000.00	\$0.00
St. Louis	\$3,260,500.00	\$895,058.73
St. Louis City	\$5,548,000.00	\$149,299.59
Ste. Genevieve	\$0.00	\$0.00
Stoddard	\$1,346,500.00	\$136,084.38
Stone	\$886,022.00	\$88,521.99
Sullivan	\$695,500.00	\$0.00
Taney	\$1,453,500.00	\$8,500.00
Texas	\$1,096,500.00	\$42,500.00
Vernon	\$1,227,000.00	\$12,000.00
Warren	\$10,500.00	\$10,500.00

Washington	\$680,500.00	\$12,000.00
Wayne	\$1,026,000.00	\$852.29
Webster	\$429,000.00	\$0.00
Worth	\$19,000.00	\$0.00
Wright	\$0.00	\$0.00
Grand Total	\$105,253,522.00	\$3,331,032.10

This proposal would result in fewer fines being assessed in the future. 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 future penalties.

This proposal also allows for a one-time reduction of a political subdivisions current outstanding balance. Should a political subdivision file its reports by January 1, 2022, they will be entitled to a one-time downward adjustment of their existing fine by 90%.

The current outstanding balance is \$101,922,490 (\$105,253,522 owed - \$3,331,032.10 collected, rounded). This is money the Department 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 \$94,728,170 ($\$105,253,522 * .90$, rounded) no longer being owed.

Oversight notes if all political subdivisions file their report and receive the reduction, it would be a loss of \$89,895,636 to the local school districts from not receiving the fine money, a loss to the state of \$1,834,605 in collection fees and a gain to the local political subdivisions of \$91,730,241 ($\$101,922,490 * 90\%$).

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

Additionally, the statutes require that the late notice sent by DOR be certified to the district. This proposal will require the certified notice to be sent to both the chief executive and chief financial officer of the district. This is expected to increase DOR's annual mailing costs by an unknown amount.

Oversight assumes the annual mailing costs of the certified notices to the districts can be absorbed by DOR.

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 January 1, 2022 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 on 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 Department of Revenue is allowed to retain two percent of the fine revenue collected (per §105.145.11). Oversight assumes a large majority of the \$101,922,490 of outstanding fines to be uncollectible. Therefore, Oversight will range the fiscal impact from this proposal from \$0 to DOR's estimates.

Oversight notes 105.145.18(4) states any costs of submitting the question shall be paid by the political subdivisions. Oversight will reflect a \$0 or (Unknown) cost to local political subdivisions for such election costs.

Officials from the **Department of Commerce and Insurance, Cities of: Claycomo, Kansas City, O'Fallon and Springfield** and the **Office of the State Auditor** 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.

In response to a previous version, officials from the **St. Louis Budget Divisions** and the **Greene County Clerk's Office** each assumed 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.

In response to similar legislation from 2021, SB 547, officials from the **Attorney General's Office** assumed 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 for this office.

Rule Promulgation

Officials from the **Joint Committee on Administrative Rules** assume this proposal is not anticipated to cause a fiscal impact beyond its current appropriation.

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.**

Oversight assumes the SOS could absorb the costs of printing and distributing regulations related to this proposal. If multiple bills pass which require the printing and distribution of regulations at substantial costs, the SOS could request funding through the appropriation process.

In response to similar legislation from 2021, SB 547, officials from the **City of Corder**, the **City of Hughesville** and the **City of O'Fallon** each assumed the proposal will have no fiscal impact on their organizations. **Oversight** does not have any information to the contrary. Therefore, Oversight will reflect a zero impact in the fiscal note for these cities.

Oversight only reflects the responses received from state agencies and political subdivisions; however, other cities and counties were requested to respond to this proposed legislation but did not. A general listing of political subdivisions included in Oversight's database is available upon request.

<u>FISCAL IMPACT – State Government</u>	FY 2023 (10 Mo.)	FY 2024	FY 2025
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) pg.9	\$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 8/28/21 (§105.145) pg. 7	\$0 or up to <u>(\$1,834,605)</u>	\$0	\$0
ESTIMATED NET EFFECT ON GENERAL REVENUE	\$0 or up to <u>(\$1,834,605)</u>	\$0 to <u>(Unknown)</u>	\$0 to <u>(Unknown)</u>

<u>FISCAL IMPACT – Local Government</u>	FY 2023 (10 Mo.)	FY 2024	FY 2025
LOCAL POLITICAL SUBDIVISIONS			
<u>Savings</u> – on potential fines for certain LPS (§105.145) pg. 8	\$0 to Unknown	\$0 to Unknown	\$0 to Unknown
<u>Loss</u> – School districts receiving less fine revenue (from savings above) (§105.145) pg. 9	\$0 to (Unknown)	\$0 to (Unknown)	\$0 to (Unknown)
<u>Costs</u> – Election costs to disincorporation (§105.145.18) pg. 9	\$0 or (Unknown)	\$0 or (Unknown)	\$0 or (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 8/28/22 (§105.145) pg. 7	\$0 or up to \$91,730,241	\$0	\$0
<u>Loss</u> – School Districts – reduction in fine revenue from one-time adjustment of fine revenue (§105.145) pg. 7	\$0 or up to (\$89,895,636)	<u>\$0</u>	<u>\$0</u>
ESTIMATED NET EFFECT ON LOCAL POLITICAL SUBDIVISIONS	Unknown, less than \$1,834,605	<u>\$0 to Unknown</u>	<u>\$0 to Unknown</u>

FISCAL IMPACT – Small Business

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

FISCAL DESCRIPTION

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 act provides that if a political subdivision with outstanding fines or penalties fails to file a financial statement after August 28, 2022 and before January 31, 2023 or fails to file any financial statement after January 31, 2023, the Director of Revenue shall initiate the process to disincorporate the political subdivision.

Additionally, a resident of a political subdivision may file an affidavit with the Director of Revenue with information regarding the political subdivision's failure to report. The Director of Revenue shall evaluate the allegation and, if true, notify the political subdivision it has 30 days to comply with the reporting requirements of this act. If the political subdivision fails to comply within the 30 days, the Director of Revenue shall initiate the process to disincorporate a political subdivision as provided in the act.

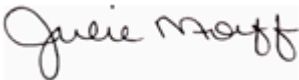
The question of whether a political subdivision may be subject to disincorporation shall be submitted to the voters of the political subdivision as provided in the act. Upon the affirmative vote of a majority of voters in the political subdivision, the Director of Revenue shall file an action to disincorporate the political subdivision in the circuit court with jurisdiction over the political subdivision. The circuit court shall enforce such orders and carry out remedies as provided in the act.

The Attorney General shall have the authority to file an action in a court of competent jurisdiction against any political subdivision that fails to comply with this act.

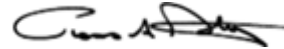
This legislation is not federally mandated, would not duplicate any other program and would not require additional capital improvements or rental space.

SOURCES OF INFORMATION

Office of Administration – Budget and Planning
Department of Commerce and Insurance
Department of Revenue
Attorney General’s Office
Office of the Secretary of State
City of Claycomo
City of Kansas City
City of Springfield
City of St. Louis Budget Division
Greene County Clerk’s Office
Office of the State Auditor
Joint Committee on Administrative Rules
City of Corder
City of Hughesville
City of O’Fallon



Julie Morff
Director
March 8, 2022



Ross Strobe
Assistant Director
March 8, 2022