

HCS HB 1854 -- POLITICAL SUBDIVISIONS

SPONSOR: Pfautsch

COMMITTEE ACTION: Voted "Do Pass with HCS" by the Standing Committee on Local Government by a vote of 12 to 0. Voted "Do Pass" by the Standing Committee on Rules- Legislative Oversight by a vote of 6 to 0 with 1 voting present.

The following is a summary of the House Committee Substitute for HB 1854.

This bill changes the laws regarding the consequences to a political subdivision for failure to file an annual financial statement with the State Auditor as required.

If the failure to submit the annual financial statement was a result of fraud or other illegal conduct by any employee, the failure shall not result in a fine.

Any political subdivision that has gross revenues of less than \$5000 or that has not levied a sales or use tax is not subject to the fine.

In addition, the Director of the Department of Revenue has the authority to make a one-time downward adjustment to any fine he or she deems uncollectible.

The first time a political subdivision that has outstanding fines due files its financial statement after August 28, 2020, the director will make a one-time downward adjustment of the total amount due.

If, after August 28, 2020 and before January 31, 2021, a political subdivision fails to file an annual statement, or if a political subdivision files an annual statement in that time period but fails to file any statement thereafter, the Director of the Department of Revenue must notify the political subdivision and any municipality or county encompassing the political subdivision by both certified mail and first-class mail that the political subdivision has 90 days to file the annual report. If the political subdivision does not do so, the Director shall initiate the process to disincorporate the political subdivision.

The question of whether the political subdivision should be disincorporated shall be submitted to the voters of that political subdivision at the next general election. The election authority for conducting the election shall give notice of the election for eight consecutive weeks prior to the election by publication in a

newspaper as specified in the bill. Upon an affirmative vote of a majority of the qualified voters, the Director shall file an action to disincorporate the political subdivision in the circuit court.

In an action to disincorporate, the circuit court shall order: the appointment of an administrative authority for the political subdivision as specified; all financial and other institutions holding funds of the political subdivision to honor the directives of the administrative authority; the Director to distribute tax revenues and funds of the political subdivision to the administrative authority; and the effective date of the disincorporation of the political subdivision.

The Attorney General will also have the authority to file an action in court against any political subdivision that fails to comply with these provisions in order to force the political subdivision into compliance.

This bill is similar to HB 761 (2019).

The following is a summary of the public testimony from the committee hearing. The testimony was based on the introduced version of the bill.

PROPONENTS: Supporters say that the purpose of the bill is to provide transparency to local government spending, but the fines previously added have resulted in many smaller political subdivisions accruing a tremendous amount of fines that simply are not collectible. The bill now authorizes a one-time downward adjustment of the total amount due from a political subdivision to provide relief, but also authorizes disincorporation of local governments that continue to fail to file the financial statement.

Testifying for the bill were Representative Pfautsch; Missouri Attorney General's Office; and the Missouri State Auditor's Office.

OPPONENTS: Those who oppose the bill say that the disincorporation provision is essentially a criminal provision that is way beyond a reasonable response to the problem addressed.

Testifying against the bill was the Lauber Municipal Law Firm.

OTHERS: Others testifying on the bill say that the bill will save money for the Department of Revenue and allow them to zero out their books because a significant amount of the fines are not collectible.

Testifying on the bill were Missouri Municipal League; and the Missouri Department of Revenue.

This bill is similar to HB 761 (2019).