

COMMITTEE ON LEGISLATIVE RESEARCH  
OVERSIGHT DIVISION

**FISCAL NOTE**

L.R. No.: 1360H.01I  
Bill No.: HB 441  
Subject: Cities, Towns, and Villages; Property, Real and Personal; Taxation and Revenue -  
Property; Revenue, Department of  
Type: Original  
Date: January 25, 2021

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

**FISCAL SUMMARY**

<b>ESTIMATED NET EFFECT ON GENERAL REVENUE FUND</b>			
<b>FUND AFFECTED</b>	<b>FY 2022</b>	<b>FY 2023</b>	<b>FY 2024</b>
General Revenue*	\$0 or up to (\$1,260,108)	\$0 to (Unknown)	\$0 to (Unknown)
<b>Total Estimated Net Effect on General Revenue*</b>	<b>\$0 or up to (\$1,260,108)</b>	<b>\$0 to (Unknown)</b>	<b>\$0 to (Unknown)</b>

\* 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 \$1,260,108 (which represents if DOR would have collected 100% of the \$63 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.

<b>ESTIMATED NET EFFECT ON OTHER STATE FUNDS</b>			
<b>FUND AFFECTED</b>	<b>FY 2022</b>	<b>FY 2023</b>	<b>FY 2024</b>
<b>Total Estimated Net Effect on <u>Other</u> State Funds</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

Numbers within parentheses: () indicate costs or losses.

<b>ESTIMATED NET EFFECT ON FEDERAL FUNDS</b>			
<b>FUND AFFECTED</b>	<b>FY 2022</b>	<b>FY 2023</b>	<b>FY 2024</b>
<b>Total Estimated Net Effect on <u>All</u> Federal Funds</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

<b>ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)</b>			
<b>FUND AFFECTED</b>	<b>FY 2022</b>	<b>FY 2023</b>	<b>FY 2024</b>
<b>Total Estimated Net Effect on FTE</b>	<b>0</b>	<b>0</b>	<b>0</b>

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

<b>ESTIMATED NET EFFECT ON LOCAL FUNDS</b>			
<b>FUND AFFECTED</b>	<b>FY 2022</b>	<b>FY 2023</b>	<b>FY 2024</b>
<b>Local Government*</b>	<b>Unknown, less than \$1,260,108</b>	<b>\$0 to Unknown</b>	<b>\$0 to Unknown</b>

\* 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 \$1,260,108 (which represents if DOR would have collected 100% of the \$63 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

Officials from the **Office of Administration - Budget and Planning (B&P)** assume §105.145 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, 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 initiate a ballot measure that could dissolve political subdivisions that fail to timely submit annual financial statements after August 28, 2021. B&P defers to DOR for more specific estimates of fines and actual collection costs.

Officials at 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 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 Department sends a notice to the political subdivision and thirty days later the fee starts to accumulate.

The Department collects the fine by offsetting any sales or use tax distributions due to the political subdivisions. In essence the Department 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 Department assumes much of what is owed is uncollectable. Additionally, 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 states that any political subdivision that has gross revenues less than \$5,000 or has not levied or collected a sales and use tax in the fiscal year, would not be subject to the fine. Additionally, language is added that if the failure to file is a result of fraud or illegal conduct by an employee or officer of the political subdivision, and if the political subdivision complies with filing the financial statement within thirty days of the discovery of the fraud or illegal conduct, the fine shall not be assessed.

This proposal is allowing a political subdivision that files its financial statement after January 1, 2022 to receive a 90% reduction of their outstanding balance of their fines owed. The Department notes that this fine money is given to the local jurisdiction's school district when paid, minus a 2% collection fee retained by the Department of Revenue that is deposited into General Revenue.

Current records of the Department show total fines of \$72,444,999.99 and that \$2,438,991.50 has been collected. The Department 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.

By Political Subdivision Type:

<b>PolSub Type</b>	<b>Total Owed</b>	<b>Total Paid</b>
911	\$500.00	\$0.00
AMB	\$2,143,500.00	\$91,639.53
CID	\$13,349,500.00	\$360,986.77
City	\$23,435,499.99	\$1,745,878.33
Drain	\$3,789,000.00	\$0.00
FPD	\$9,502,500.00	\$42,500.00
Health	\$333,500.00	\$0.00
Hospital	\$524,500.00	\$0.00
Levy	\$3,128,500.00	\$0.00
Library	\$757,000.00	\$0.00
NHD	\$215,000.00	\$0.00
PWSD	\$3,124,000.00	\$6,500.00
SEWER	\$223,500.00	\$0.00
SLD	\$771,500.00	\$0.00
SRD	\$6,666,500.00	\$0.00
TDD	\$4,480,500.00	\$191,486.87
	<b>\$72,444,999.99</b>	<b>\$2,438,991.50</b>

By County of where the political subdivision is located:

<b>County</b>	<b>Total Fines Assessed</b>	<b>Total Paid</b>
Adair	\$551,500.00	\$1,500.00
Andrew	\$46,500.00	\$0.00
Atchison	\$525,500.00	\$0.00
Audrain	\$688,000.00	\$0.00
Barry	\$1,320,500.00	\$14,113.87
Barton	\$0.00	\$0.00

Bates	\$492,500.00	\$29,408.04
Benton	\$38,500.00	\$0.00
Bollinger	\$1,086,000.00	\$0.00
Boone	\$259,000.00	\$20,967.30
Buchanan	\$506,500.00	\$34,689.99
Butler	\$913,000.00	\$26,694.50
Caldwell	\$100,000.00	\$14,500.93
Callaway	\$190,000.00	\$1,947.94
Camden	\$220,000.00	\$22,000.00
Cape Girardeau	\$195,500.00	\$0.00
Carroll	\$2,142,500.00	\$0.00
Carter	\$1,172,500.00	\$17,500.00
Cass	\$2,944,500.00	\$8,463.47
Cedar	\$211,500.00	\$28,500.00
Chariton	\$372,000.00	\$39,500.00
Christian	\$1,427,500.00	\$0.00
Clark	\$454,000.00	\$37,500.00
Clay	\$682,500.00	\$14,500.00
Clinton	\$875,500.00	\$0.00
Cole	\$434,000.00	\$3,628.34
Cooper	\$828,500.00	\$22,000.00
Crawford	\$944,000.00	\$20,000.00
Dade	\$143,500.00	\$0.00
Dallas	\$806,500.00	\$0.00
Daviess	\$425,500.00	\$0.00
DeKalb	\$390,000.00	\$0.00
Dent	\$194,500.00	\$0.00
Douglas	\$0.00	\$0.00
Dunklin	\$1,200,500.00	\$14,818.20
Franklin	\$947,500.00	\$443.90
Gasconade	\$65,500.00	\$4,249.10
Gentry	\$1,159,500.00	\$0.00
Greene	\$516,500.00	\$9,000.00
Grundy	\$645,000.00	\$0.00
Harrison	\$390,000.00	\$0.00
Henry	\$492,500.00	\$76,883.03
Hickory	\$416,500.00	\$0.00

Holt	\$995,000.00	\$10,500.00
Howard	\$690,000.00	\$147,500.00
Howell	\$489,500.00	\$56,000.00
Iron	\$20,000.00	\$12,000.00
Jackson	\$1,688,500.00	\$204,833.53
Jasper	\$729,000.00	\$24,598.49
Jefferson	\$807,000.00	\$17,800.33
Johnson	\$391,500.00	\$1,500.00
Knox	\$738,500.00	\$0.00
Laclede	\$193,500.00	\$12,000.00
Lafayette	\$237,000.00	\$33,417.80
Lawrence	\$1,916,000.00	\$0.00
Lewis	\$1,187,000.00	\$0.00
Lincoln	\$712,500.00	\$26,313.03
Linn	\$304,000.00	\$30,500.00
Livingston	\$812,500.00	\$22,000.00
Macon	\$38,500.00	\$0.00
Madison	\$1,340,500.00	\$5,139.53
Maries	\$7,000.00	\$0.00
Marion	\$0.00	\$0.00
McDonald	\$38,500.00	\$0.00
Mercer	\$416,500.00	\$0.00
Miller	\$554,500.00	\$2,528.17
Mississippi	\$807,500.00	\$70.56
Moniteau	\$0.00	\$0.00
Monroe	\$10,000.00	\$10,000.00
Montgomery	\$109,500.00	\$0.00
Morgan	\$0.00	\$0.00
New Madrid	\$1,232,500.00	\$102,036.35
Newton	\$242,500.00	\$25,500.00
Nodaway	\$1,804,000.00	\$10,000.00
Oregon	\$0.00	\$0.00
Osage	\$369,500.00	\$9,937.93
Ozark	\$43,000.00	\$43,000.00
Pemiscot	\$2,032,500.00	\$6,500.00
Perry	\$1,162,000.00	\$0.00
Pettis	\$401,000.00	\$0.00
Phelps	\$333,500.00	\$50,000.00

Pike	\$0.00	\$0.00
Platte	\$632,500.00	\$22,500.00
Polk	\$267,000.00	\$0.00
Pulaski	\$860,500.00	\$17,000.00
Putnam	\$0.00	\$0.00
Ralls	\$177,500.00	\$31,055.19
Randolph	\$660,500.00	\$10,500.00
Ray	\$1,374,000.00	\$0.00
Reynolds	\$397,500.00	\$657.95
Ripley	\$232,000.00	\$0.00
Saline	\$463,500.00	\$0.00
Schuyler	\$430,500.00	\$0.00
Scotland	\$548,000.00	\$0.00
Scott	\$1,298,000.00	\$0.00
Shannon	\$104,500.00	\$95,001.92
Shelby	\$6,500.00	\$6,500.00
St Clair	\$178,000.00	\$0.00
St. Charles	\$935,000.00	\$46,455.82
St. Clair	\$1,240,500.00	\$229.37
St. Francois	\$238,500.00	\$0.00
St. Louis	\$2,052,500.00	\$473,564.92
St. Louis City	\$4,018,000.00	\$104,946.13
Ste. Genevieve	\$0.00	\$0.00
Stoddard	\$950,500.00	\$132,693.13
Stone	\$687,999.99	\$88,499.99
Sullivan	\$455,000.00	\$0.00
Taney	\$909,500.00	\$8,500.00
Taney	\$0.00	\$0.00
Texas	\$697,500.00	\$39,500.00
Vernon	\$764,000.00	\$12,000.00
Warren	\$10,500.00	\$10,500.00
Washington	\$482,500.00	\$12,000.00
Wayne	\$852,500.00	\$402.75
Webster	\$231,000.00	\$0.00
Worth	\$19,000.00	\$0.00
Wright	\$0.00	
<b>TOTALS</b>	<b>\$72,444,999.99</b>	<b>\$2,438,991.50</b>

DOR notes that per statute we are allowed to retain 2% of the amount collected for administration. Since the program began we have collected \$48,779.83 which has been deposited into General Revenue. All DOR collection fees are deposited into General Revenue and are not retained by the Department.

The current outstanding balance is \$70,006,008.49 (\$72,444,999.99 - \$2,438,991.50). This is money the Department notes is owed, but most likely uncollectable. Should it be collected it will be forwarded to the local school district fund. Therefore if all political subdivision file their report and receive the reduction it would be a loss of \$61,745,300 to the local school districts from not receiving the fine money, a loss to the state of \$1,260,108 in collection fees and a gain to the local political subdivisions of \$63,005,408 (\$70,006,008 \* 90%).

The new provisions to this proposal calls for DOR to initiate a ballot measure that could dissolve political subdivisions that fail to timely submit annual financial statements after January 1, 2022. The Department assumes that if there is an impact it could be absorbed by the Department.

**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 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 \$70,006,008 of outstanding fines to be uncollectible. Therefore, Oversight will range the fiscal impact from this proposal from \$0 to DOR's estimates.

Officials at the **Kansas City Board of Elections** assume a cost of \$625,000 to conduct an election in the Kansas City portion of Jackson County, depending on the number of registered voters in that jurisdiction and other entities participating in that election.



**Oversight** notes that subsection 18 of §105.145 states that the question of whether a political subdivision subject to possible disincorporation shall be submitted to the voters of the political subdivision on the next general election day. Oversight assumes the local election authority would be reimbursed by the state if this issue were on the ballot for Kansas City. Therefore, Oversight will reflect a \$0 fiscal impact for this respondent's conclusion.

Officials at the **Platte County Board of Elections** assume increased publishing costs of \$1,500 from this proposal.

**Oversight** assumes the Platte County Board of Elections is provided with core funding to handle a certain amount of publishing costs each year. Oversight assumes Platte County Board of Elections could absorb the costs related to this proposal. If multiple bills pass which require additional costs related to this proposal, the Platte County Board of Elections could request funding through the appropriation process. Therefore, Oversight will assume the proposal will have no fiscal impact on their organization.

#### 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)** notes many bills considered by the General Assembly include provisions allowing or requiring agencies to submit rules and regulations to implement the act. The Secretary of State's office 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 Secretary of State's office for Administrative Rules is less than \$5,000. The Secretary of State's office recognizes that this is a small amount and does not expect that additional funding would be required to meet these costs.** However, they also recognize 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 our office can sustain with our core budget. **Therefore, they reserve 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.

Officials from the **Office of the State Auditor**, the **Attorney General's Office** and the **Office of the State Courts Administrator** 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 **City of Kansas City**, the **City of O’Fallon**, the **City of Springfield**, **St. Louis City**, the **St. Louis County Board of Elections** and **Clinton County** 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.

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

<u>FISCAL IMPACT – State Government</u>	FY 2022 (10 Mo.)	FY 2023	FY 2024
<b>GENERAL REVENUE</b>			
<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	\$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	\$0 or up to <u>(\$1,260,108)</u>	<u>\$0</u>	<u>\$0</u>
<b>ESTIMATED NET EFFECT ON GENERAL REVENUE</b>	<b>\$0 or up to <u>(\$1,260,108)</u></b>	<b><u>\$0 to (Unknown)</u></b>	<b><u>\$0 to (Unknown)</u></b>

<u>FISCAL IMPACT – Local Government</u>	FY 2022 (10 Mo.)	FY 2023	FY 2024
<b>LOCAL POLITICAL SUBDIVISIONS</b>			
<u>Savings</u> – on potential fines for certain LPS	\$0 to Unknown	\$0 to Unknown	\$0 to Unknown
<u>Loss</u> – School districts receiving less fine revenue (from savings above)	\$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 8/28/21	\$0 or up to \$63,005,408	\$0	\$0
<u>Loss</u> – School Districts – reduction in fine revenue from one-time adjustment of fine revenue	\$0 or up to (\$61,745,300)	<u>\$0</u>	<u>\$0</u>
<b>ESTIMATED NET EFFECT ON LOCAL POLITICAL SUBDIVISIONS</b>	<b>Unknown, less than \$1,260,108</b>	<b><u>\$0 to Unknown</u></b>	<b><u>\$0 to Unknown</u></b>

FISCAL IMPACT – Small Business

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

### FISCAL DESCRIPTION

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 \$5,000 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, 2022, the Director will make a one-time downward adjustment of the total amount due.

If, after August 28, 2021 and before January 31, 2022, 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 that it has 30 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.

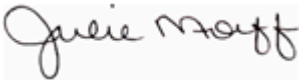
In an action to disincorporate, the circuit court shall order: the appointment of an administrative authority for the political subdivision as specified; all financial and other institutions holding funds of the political subdivision to honor the directives of the administrative authority; the Director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

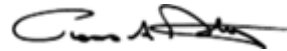
This legislation is not federally mandated, would not duplicate any other program and would not require additional capital improvements or rental space.

SOURCES OF INFORMATION

Office of Administration - Budget and Planning  
Department of Revenue  
Kansas City Board of Elections  
Platte County Board of Elections  
Joint Committee on Administrative Rules  
Office of the Secretary of State  
Office of the State Auditor  
Attorney General's Office  
Office of the State Courts Administrator  
City of Kansas City  
City of O'Fallon  
City of Springfield  
St. Louis City  
St. Louis County Board of Elections  
Clinton County



Julie Morff  
Director  
January 25, 2021



Ross Strobe  
Assistant Director  
January 25, 2021