

FIRST REGULAR SESSION

HOUSE BILL NO. 441

101ST GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE FALKNER.

1360H.011

DANA RADEMAN MILLER, Chief Clerk

AN ACT

To repeal section 105.145, RSMo, and to enact in lieu thereof one new section relating to political subdivisions filing annual financial reports with the state auditor, with penalty provisions.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Section 105.145, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 105.145, to read as follows

105.145. 1. The following definitions shall be applied to the terms used in this section:
(1) "Governing body", the board, body, or persons in which the powers of a political subdivision as a body corporate, or otherwise, are vested;

(2) "Political subdivision", any agency or unit of this state, except counties and school districts, which now is, or hereafter shall be, authorized to levy taxes or empowered to cause taxes to be levied.

2. The governing body of each political subdivision in the state shall cause to be prepared an annual report of the financial transactions of the political subdivision in such summary form as the state auditor shall prescribe by rule, except that the annual report of political subdivisions whose cash receipts for the reporting period are ten thousand dollars or less shall only be required to contain the cash balance at the beginning of the reporting period, a summary of cash receipts, a summary of cash disbursements and the cash balance at the end of the reporting period.

3. Within such time following the end of the fiscal year as the state auditor shall prescribe by rule, the governing body of each political subdivision shall cause a copy of the annual financial report to be remitted to the state auditor.

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

17 4. The state auditor shall immediately on receipt of each financial report acknowledge
18 the receipt of the report.

19 5. In any fiscal year no member of the governing body of any political subdivision of the
20 state shall receive any compensation or payment of expenses after the end of the time within
21 which the financial statement of the political subdivision is required to be filed with the state
22 auditor and until such time as the notice from the state auditor of the filing of the annual financial
23 report for the fiscal year has been received.

24 6. The state auditor shall prepare sample forms for financial reports and shall mail the
25 same to the political subdivisions of the state. Failure of the auditor to supply such forms shall
26 not in any way excuse any person from the performance of any duty imposed by this section.

27 7. All reports or financial statements herein above mentioned shall be considered to be
28 public records.

29 8. The provisions of this section apply to the board of directors of every transportation
30 development district organized under sections 238.200 to 238.275.

31 9. Any political subdivision that fails to timely submit a copy of the annual financial
32 statement to the state auditor shall be subject to a fine of five hundred dollars per day.

33 10. The state auditor shall report any violation of subsection 9 of this section to the
34 department of revenue. Upon notification from the state auditor's office that a political
35 subdivision failed to timely submit a copy of the annual financial statement, the department of
36 revenue shall notify such political subdivision by certified mail that the statement has not been
37 received. Such notice shall clearly set forth the following:

38 (1) The name of the political subdivision;

39 (2) That the political subdivision shall be subject to a fine of five hundred dollars per day
40 if the political subdivision does not submit a copy of the annual financial statement to the state
41 auditor's office within thirty days from the postmarked date stamped on the certified mail
42 envelope;

43 (3) That the fine will be enforced and collected as provided under subsection 11 of this
44 section; and

45 (4) That the fine will begin accruing on the thirty-first day from the postmarked date
46 stamped on the certified mail envelope and will continue to accrue until the state auditor's office
47 receives a copy of the financial statement.

48

49 In the event a copy of the annual financial statement is received within such thirty-day period,
50 no fine shall accrue or be imposed. The state auditor shall report receipt of the financial
51 statement to the department of revenue within ten business days. Failure of the political

52 subdivision to submit the required annual financial statement within such thirty-day period shall
53 cause the fine to be collected as provided under subsection 11 of this section.

54 11. The department of revenue may collect the fine authorized under the provisions of
55 subsection 9 of this section by offsetting any sales or use tax distributions due to the political
56 subdivision. The director of revenue shall retain two percent for the cost of such collection. The
57 remaining revenues collected from such violations shall be distributed annually to the schools
58 of the county in the same manner that proceeds for all penalties, forfeitures, and fines collected
59 for any breach of the penal laws of the state are distributed.

60 12. Any ~~[transportation development district organized under sections 238.200 to~~
61 ~~238.275 having]~~ **political subdivision that has** gross revenues of less than five thousand dollars
62 **or that has not levied or collected sales or use taxes** in the fiscal year for which the annual
63 financial statement was not timely filed shall not be subject to the fine authorized in this section.

64 13. **If a failure to timely submit the annual financial statement is the result of fraud**
65 **or other illegal conduct by an employee or officer of the political subdivision, the failure**
66 **shall not be subject to a fine authorized under this section if the statement is filed within**
67 **thirty days of the discovery of the fraud or illegal conduct. If a fine is assessed and paid**
68 **prior to the filing of the statement, the department of revenue shall refund the fine upon**
69 **notification from the political subdivision.**

70 14. **If a political subdivision has an outstanding balance for fines or penalties at the**
71 **time it files its first annual financial statement after January 1, 2022, the director of**
72 **revenue shall make a one-time downward adjustment to such outstanding balance in an**
73 **amount that reduces the outstanding balance by ninety percent.**

74 15. **The director of revenue shall have the authority to make a one-time downward**
75 **adjustment to any outstanding penalty imposed under this section on a political subdivision**
76 **if the director determines the fine is uncollectable. The director of revenue may prescribe**
77 **rules and regulations necessary to carry out the provisions of this subsection. Any rule or**
78 **portion of a rule, as that term is defined in section 536.010, that is created under the**
79 **authority delegated in this section shall become effective only if it complies with and is**
80 **subject to all of the provisions of chapter 536 and, if applicable, section 536.028. This**
81 **section and chapter 536 are nonseverable, and if any of the powers vested with the general**
82 **assembly pursuant to chapter 536 to review, to delay the effective date, or to disapprove**
83 **and annul a rule are subsequently held unconstitutional, then the grant of rulemaking**
84 **authority and any rule proposed or adopted after August 28, 2021, shall be invalid and**
85 **void.**

86 16. **If a political subdivision with an outstanding balance for fines or penalties:**

87 (1) Fails to file an annual financial statement after August 28, 2021, and before
88 January 1, 2022; or

89 (2) Files an annual financial statement after August 28, 2021, and before January
90 1, 2022, but fails to file any annual financial statement thereafter,

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92 then the director of revenue shall initiate the process to disincorporate the political
93 subdivision under subsection 18 of this section.

94 17. If any resident of a political subdivision believes or knows that the political
95 subdivision has failed to file the annual financial report required under subsection 2 of this
96 section, the resident may file an affidavit with the director of revenue that attests to the
97 alleged failure. The director of revenue shall evaluate the allegation and, if true, notify the
98 political subdivision that it has thirty days to comply with subsection 2 of this section. If
99 the political subdivision has not complied after thirty days, the director of revenue shall
100 initiate the process to disincorporate the political subdivision under subsection 18 of this
101 section.

102 18. (1) The question of whether a political subdivision subject to possible
103 disincorporation under subsection 16 or 17 of this section shall be disincorporated shall be
104 submitted to the voters of the political subdivision. The election upon the question shall
105 be held on the next general election day.

106 (2) No later than five o'clock p.m. on the tenth Tuesday prior to the election, the
107 director of revenue shall notify the election authorities responsible for conducting the
108 election according to the provisions of section 115.125 and the county governing body in
109 which the political subdivision is located.

110 (3) The election authority shall give notice of the election for eight consecutive
111 weeks prior to the election by publication in a newspaper of general circulation published
112 in the political subdivision or, if there is no such newspaper in the political subdivision, in
113 the newspaper in the county published nearest the political subdivision.

114 (4) Any costs of submitting the question shall be paid by the political subdivision.

115 (5) The question shall be submitted to the voters of such city, town, or village in
116 substantially the following form:

117 The (city/town/village) of _____ (has an outstanding balance for fines
118 or penalties and) has failed to file an annual financial statement, as required
119 by law. Shall the (city/town/village) of _____ be disincorporated?

120 ☐ YES ☐ NO

121

122 Upon the affirmative vote of a majority of the qualified voters voting on the question, the
123 director of revenue shall file an action to disincorporate the political subdivision in the
124 circuit court with jurisdiction over the political subdivision.

125 19. In an action to disincorporate a political subdivision, the circuit court shall
126 order:

127 (1) The appointment of an administrative authority for the political subdivision,
128 which may be another political subdivision, the state, a qualified private party, or other
129 qualified entity;

130 (2) All financial and other institutions holding funds of the political subdivision, as
131 identified by the director of revenue, to honor the directives of the administrative
132 authority;

133 (3) The director of revenue or other party charged with distributing tax revenue
134 to distribute the revenues and funds of the political subdivision to the administrative
135 authority; and

136 (4) The disincorporation of the political subdivision and the effective date of the
137 disincorporation, taking into consideration a reasonable transition period.

138
139 The administrative authority shall administer all revenues under the name of the political
140 subdivision or its agents and administer all funds collected on behalf of the political
141 subdivision. The administrative authority shall use the revenues and existing funds to pay
142 all debts and obligations of the political subdivision other than the penalties accrued under
143 this section. The circuit court shall have ongoing jurisdiction to enforce its orders and
144 carry out the remedies under this subsection.

145 20. The attorney general shall have the authority to file an action in a court of
146 competent jurisdiction against any political subdivision that fails to comply with this
147 section in order to force the political subdivision into compliance.

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